Agenda

County of Inyo
Board of Supervisors

Board of Supervisors Room
County Administrative Center
224 North Edwards
Independence, California

All members of the public are encouraged to participate in the discussion of any items on the Agenda. Anyone wishing to speak, please obtain a card from the Board Clerk and indicate each item you would like to discuss. Return the completed card to the Board Clerk before the Board considers the item (s) upon which you wish to speak. You will be allowed to speak about each item before the Board takes action on it.

Any member of the public may also make comments during the scheduled "Public Comment" period on this agenda concerning any subject related to the Board of Supervisors or County Government. No card needs to be submitted in order to speak during the "Public Comment" period.

Public Notices: *(1)* In Compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting please contact the Clerk of the Board at (760) 878-0373. (28 CFR 35.102-35.104 ADA Title II). Notification 48 hours prior to the meeting will enable the County to make reasonable arrangements to ensure accessibility to this meeting. Should you because of a disability require appropriate alternative formatting of this agenda, please notify the Clerk of the Board 72 hours prior to the meeting to enable the County to make the agenda available in a reasonable alternative format. (Government Code Section 54954.2). *(2)* If a writing, that is a public record relating to an agenda item for an open session of a regular meeting of the Board of Supervisors, is distributed less than 72 hours prior to the meeting, the writing shall be available for public inspection at the Office of the Clerk of the Board of Supervisors, 224 N. Edwards, Independence, California and is available per Government Code § 54957.5(b)(1).
Note: Historically the Board does break for lunch, the timing of a lunch break is made at the discretion of the Chairperson and at the Board's convenience.

April 17, 2012

9:00 a.m. ***INVOCATION*** by Supervisor Richard Cervantes

PLEDGE OF ALLEGIANCE

COMMENT **(Portion of the Agenda when Board takes comment from the public and County staff)**

1. ***PUBLIC COMMENT***

2. ***COUNTY DEPARTMENT REPORTS*** *(Reports limited to two minutes)*

CONSENT AGENDA **(Approval recommended by the County Administrator)**

COUNTY ADMINISTRATOR

3. ***Emergency Services*** – Request Board continue the local emergency as a result of the Inyo Complex Oak Creek Mud Flows.

4. ***Information Services*** – Request Board approve the purchase of various audio and visual components for the County of Inyo Emergency Operations Center from Fluid Sound, the apparent low bidder in an amount not to exceed $51,975.

CHILD SUPPORT SERVICES

5. Request approval of Amendment No. 1 to the Contract between the County of Inyo and Kristy Keener for Court Reporter services to increase the amount of the Contract by $10,000 to an amount not to exceed $20,000, and extending the ending date of the Contract from September 30, 2012 to June 30, 2013, contingent upon the Board's adoption of future budgets; and authorize the Chairperson to sign.

HEALTH AND HUMAN SERVICES

6. ***Social Services*** – Request approval of the Child Welfare System County Self-Assessment (CSA) and authorize HHS to submit the CSA to the State Department of Social Services as required by the Child Welfare Improvement and Accountability Act of 2011; and authorize the Chairperson to sign.

PUBLIC WORKS

7. Request approval of the Contract between the County of Inyo and California Department of Parks and Recreation for the installation of combined-use signage pursuant to Assembly Bill 628 in the amount of $100,000, contingent upon the Board's adoption of future budgets; and authorize the Public Works Director to sign the Contract and future documents necessary to implement the Contract, contingent upon the appropriate signatures being obtained.

SHERIFF

8. Request Board declare Cellebrite USA Corp as a sole-source provider of forensic extraction devices and accessories, and authorize the purchase of one Universal Forensic Device (UFED) including UFED kit and accessories and one UFED "Ultimate" add on module software from Cellebrite USA Corp. in an amount not to exceed $8,583.99 including shipping, plus sale tax in the amount of $658.67.

9. Request Board declare American Security Group a sole source provider of security surveillance system equipment maintenance and approve the Contract between the County of Inyo and American Security Group for the provision of maintenance of security surveillance system equipment for the period of July 1, 2012 through June 30, 2015, in an amount not to exceed $69,390, contingent upon the Board's adoption of future budgets; and authorize the Chairperson to sign, contingent upon the appropriate signatures being obtained.

DEPARTMENTAL **(To be considered at the Board's convenience)**

10. ***AGRICULTURAL COMMISSIONER*** - Request Board find that consistent with the adopted Authorized Position Review Policy: A) the availability of funding for the requested positions exists, as certified by the Agricultural Commissioner, and concurred with by the County Administrator and the Auditor-Controller; B) where internal candidates meet the qualifications for the positions of Field Assistant, the vacancies could possibly be filled through an internal recruitment, but an open recruitment would be more appropriate to ensure a sufficient number of qualified applicants apply; and C) approve the hiring of two seasonal Field Assistant I's at Range 050PT ($13.90 – $16.87 per hour), to work for a 6 month period, contingent upon the Board's adoption of future budgets.

11. ***HEALTH & HUMAN SERVICES – Social Services*** – Request Board A) amend the FY 2011-12 Social Services Budget Unit 055800 by increasing estimate revenue in Social Services Realignment *(Revenue Code #4420)* by $1,460 and Sale of Fixed Assets *(Revenue Code #4911)* by $29,270 and increasing appropriations in Prior Year Reimbursement *(Object Code #5499)* by $30,730, *(4/5's vote required);* and B) authorize payment of $30,730 to the California Department of Public Health.

12. ***ASSESSOR – AUDITOR-CONTROLLER – COUNTY ADMINISTRATOR – Information Services – TREASURER-TAX COLLECTOR*** – Request Board A) accept the presentation on and discuss the replacement of the aging CREST Property Tax System, review the DRAFT RFPs for (i) the replacement Property Tax System, and (ii) the Project Manager; B) authorize the issuance of the RFP-PTMS12, Software and Implementation and Training Services for an Integrated Property Tax Management System, contingent upon obtaining the appropriate approvals; and C) authorize the issuance of the RFP-PTMS13, Project Management Service for the Integrated Property Tax Management System upon obtaining the appropriate approvals.

13. ***PLANNING*** – Request Board provide input on and authorize staff to use and distribute the DRAFT Energy Action Plan template.

14. ***WATER DEPARTMENT*** – Request Board receive an update on Inyo Mono Integrated Regional Water Management Plan (IRWMP) activities and provide direction concerning the April 17, 2012 Regional Water Management Group meeting concerning the IRWMP.

15. ***CHILD SUPPORT SERVICES*** – Request Board direction regarding the Department joining with 15 other local Child Support agencies of small and rural counties to apply for a five (5) year federal grant relating to employment services for child support customers.

16. ***CHILD SUPPORT SERVICES*** – Request Board find that consistent with the adopted Authorized Position Review Policy: A) the availability of funding for the requested position exists, as certified by the Director of Child Support Services, and concurred with by the County Administrator and the Auditor-Controller; B) where internal candidates meet the qualifications for the position of Administrative Analyst the vacancy could possibly be filled through an internal recruitment, but an open recruitment would be more appropriate to ensure a sufficient number of qualified applicants apply; and C) upon the vacancy occurring approve the hiring of one Administrative Analyst I, at Range 66 ($3,757 - $4,574).

17. ***CLERK OF THE BOARD*** – Request approval of the minutes of the April 3, 2012 Board of Supervisors Meeting.

TIMED ITEMS (Items will not be considered before scheduled time)

10:00 a.m. 18. ***PLANNING*** - Request the Board A) conduct a workshop regarding the upcoming Inyo National Forest Plan Update/Revision, providing input to County and Forest Service staffs, and begin prioritizing the County involvement in the substance and process of the Update/Revision; and B) discuss other Forest Service issues as presented by Forest Service personnel.

11:30 a.m. 19. ***WATER DEPARTMENT*** – Request Board direction on how to proceed to a final LORP RUP (Recreational Use Plan).

CORRESPONDENCE - ACTION

BOARD MEMBERS AND STAFF REPORTS

COMMENT (Portion of the Agenda when the Board takes comment from the public and County staff)

20. ***PUBLIC COMMENT***

CLOSED SESSION

21. ***CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION (Pursuant to Government Code §54956.9(c)*** – Decision Whether to Initiate Litigation (one case).

22. ***CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION (Pursuant to Government Code §54956.9(b)*** – Significant Exposure to Litigation (one case).

23. ***PERSONNEL [PURSUANT TO GOVERNMENT CODE §54957]*** - Public Employee Performance Evaluation – Title: Director Agriculture/Sealer of Weights and Measures.

24. ***PERSONNEL [PURSUANT TO GOVERNMENT CODE §54957]*** - Public Employee Performance Evaluation – Title: Director of Child Support Services.

25. ***CONFERENCE WITH LABOR NEGOTIATOR [Pursuant to Government Code §54957.6]*** - Instructions to Negotiators re: wages, salaries and benefits - Employee Organization: Deputy Sheriffs Association (DSA) - Negotiators: Labor Relations Administrator Sue Dishion, Information Services Director Brandon Shults, and Planning Director Josh Hart.

26. ***CONFERENCE WITH LABOR NEGOTIATOR [Pursuant to Government Code §54957.6]*** - Instructions to Negotiators re: wages, salaries and benefits - Employee Organization: Elected Officials Assistants Association (EOAA) - Negotiators: Chief Probation Officer Jeff Thomson and Labor Relations Administrator Sue Dishion.

27. ***CONFERENCE WITH LABOR NEGOTIATOR [Pursuant to Government Code §54957.6]*** - Instructions to Negotiators re: wages, salaries and benefits - Employee Organization: Inyo County Correctional Officers Association (ICCOA) - Negotiators: Labor Relations Administrator Sue Dishion.

28. ***CONFERENCE WITH LABOR NEGOTIATOR [Pursuant to Government Code §54957.6]*** - Instructions to Negotiators re: wages, salaries and benefits - Employee Organization: ICEA - Negotiators: Labor Relations Administrator Sue Dishion, Director of Child Support Services Susanne Rizo, Chief Probation Officer Jeff Thomson.

29. ***CONFERENCE WITH LABOR NEGOTIATOR [Pursuant to Government Code § 54957.6].*** – Instructions to Negotiators re: wages, salaries and benefits – Employee Organization: Inyo County Probation Peace Officers Association (ICPPOA) – Negotiators: CAO Kevin Carunchio and Labor Relations Administrator Sue Dishion.

30. ***CONFERENCE WITH LABOR NEGOTIATOR [Pursuant to Government Code § 54957.6].*** – Instructions to Negotiators re: wages, salaries and benefits – Title IHSS – Negotiators: Health and Human Services Director Jean Turner, Labor Relations Administrator Sue Dishion, and Employer of Record Anne Parkinson Noda and Bill May.

31. ***CONFERENCE WITH LABOR NEGOTIATOR [Pursuant to Government Code §54957.6]*** - Instructions to Negotiators re: wages, salaries and benefits - Employee Organization: Law Enforcement Administrators Association (LEAA) - Negotiators: CAO Kevin Carunchio and Labor Relations Administrator Sue Dishion.

REPORT ON CLOSED SESSION AS REQUIRED BY LAW

CORRESPONDENCE - INFORMATIONAL

32. ***ENVIRONMENTAL HEALTH*** – Proposition 65 Report of a large chemical spill at the site of an injury traffic accident on southbound U.S. 395 at the Division Creek Rest area.

33. ***TREASURER-TAX COLLECTOR*** – Treasury Status Report for the quarter ending March 31, 2012.

34. ***KERN COUNTY SUPERINTENDENT OF SCHOOLS*** – Notice of Trustee Area Boundary Changes for the Kern Community College District.

35. ***CITY OF BISHOP*** – Agenda for the April 9, 2012 City Council Meeting.

AGENDA REQUEST FORM

BOARD OF SUPERVISORS
COUNTY OF INYO

For Clerk's Use Only:
AGENDA NUMBER
3

☒ Consent ☐ Departmental ☐ Correspondence Action ☐ Public Hearing
☐ Scheduled Time for ☐ Closed Session ☐ Informational

FROM: Kevin D. Carunchio, County Administrator

FOR THE BOARD MEETING OF April 17, 2012

SUBJECT: Continuation of declaration of local emergency

DEPARTMENTAL RECOMMENDATION: - Request Board continue the local emergency as a result of the Inyo Complex Oak Creek Mud Flows.

SUMMARY DISCUSSION: - During your August 5, 2008 Board of Supervisors meeting your Board took action to continue the local emergency, which was a result of the Inyo Complex Oak Creek Mud Flows. Since the circumstances and conditions relating to this emergency persist, your Board directed that the continuation of the declaration be considered on a week-to-week basis. The recommendation is that the emergency be continued until the permanent diversions are in place. LADWP has notified your Board that the completion of the project is expected for sometime this fall. Therefore, it is recommended that your Board continue the emergency.

ALTERNATIVES: N/A

OTHER AGENCY INVOLVEMENT: N/ A

FINANCING: N/A

APPROVALS	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS *(Must be reviewed and approved by county counsel prior to submission to the board clerk.)* Approved: _____ Date_____
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS (*Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)* Approved:_____ Date_____
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.) Approved:_____ Date_____

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received)_____ Date:_____
(The Original plus 20 copies of this document are required)

AGENDA REQUEST FORM
BOARD OF SUPERVISORS
COUNTY OF INYO

For Clerk's Use Only:
AGENDA NUMBER
4

☒ Consent ☐ Departmental ☐ Correspondence Action ☐ Public Hearing

☐ Scheduled Time for ☐ Closed Session ☐ Informational

FROM: County Administrator – Information Services

FOR THE BOARD MEETING OF: **April 17, 2012**

SUBJECT: Award of bid for Audio Video Equipment for Emergency Operations Centers

DEPARTMENTAL RECOMMENDATION:

A) Request your Board approve the purchase of various audio and visual components (RFP-IS1201-02) for County of Inyo Emergency Operations Centers from Fluid Sound, the apparent low bidder, in an amount not to exceed $51,975.

SUMMARY DISCUSSION:

In December 2010, your Board accepted a COPS Technology grant in the amount of $240,000 in order to equip Emergency Operation Center facilities identified as the Sheriff's Posse Hut in Bishop, the Sheriff's Office in Independence and the County Board of Supervisors room in Independence with necessary technology. To date, the basic productivity technology such as computers and printers has been acquired and the necessary network infrastructure has been implemented. The next phase of the project involves implementing audio-visual technology.

RFP-IS1201-02 County of Inyo Request for Proposal for Audio Visual Equipment for Emergency Operations was issued March 22, 2012. Three responses were received by the published due date of 3:30 PM Friday, April 6, 2012: Digital Networks Group, Inc. [$103,385], Troxell Communications, Inc. [$74,533], and Fluid Sound [$50,975]. Fluid Sound submitted the apparent lowest bid and the bid closest to the project estimate of $51,764.

ALTERNATIVES:

Your Board could choose not to award the bid as recommended. In such case the bid could be re-advertised, necessary components could be researched and acquired individually by Information Services or the project could be abandoned. None of these options are recommended because the revised proposal from Fluid Sound closely matched the project estimate, funding was secured specifically for the project and is available.

OTHER AGENCY INVOLVEMENT:

The bid involved the cooperation and support of Inyo County Purchasing and the Inyo County Sheriff's Office.

FINANCING:

The Emergency Operations Center project and the purchase is fully funded in the Board approved COPS Technology Grant budget 623610, object code 5232 office and other equipment < $5000.

APPROVALS	
COUNTY COUNSEL	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS *(Must be reviewed and approved by county counsel prior to submission to the board clerk.)* Approved: yes Date 4/10/2012
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS (*Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)* Approved: Date 4/11/12
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.) Approved: Date

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received) Date: 4/12/12

AGENDA REQUEST FORM

BOARD OF SUPERVISORS
COUNTY OF INYO

For Clerk's Use Only:
AGENDA NUMBER
5

☒Consent ☐ Departmental ☐Correspondence Action ☐ Public Hearing

☐ Scheduled Time for ☐ Closed Session ☐ Informational

FROM: Child Support Services

FOR THE BOARD MEETING OF: April 17, 1012

SUBJECT: Approval of Amendment to Court Reporter Contract

DEPARTMENTAL RECOMMENDATION:

Request your Board approve the amendment for court reporter services between the Eastern Sierra Child Support Services Department and Kristy Keener to increase the amount payable by $10,000 to $20,000 and to extend the contract term to June 30, 2013, contingent upon approval of future budgets.

SUMMARY DISCUSSION:

The Superior Courts in Inyo or Mono Counties do not provide for court reporter services in child support hearings. In order to bring increased legitimacy to the hearings and create a record of the hearings for appeal or other purposes, Eastern Sierra Child Support began contracting with a court reporter as of December 2011.

Without court reporting services, the agency in the past had to rely on filed documentation only.

Our current sole source contract is in place through September 30, 2012. We would amend the contract's duration to have a renewal or termination date which coincides with the end of fiscal year. The Amendment would modify the term for 12 months commencing July 1, 2012, and extend through June 30, 2013, contingent upon approval and adoption of the 2012/2013 Child Support Budget.

ALTERNATIVES:

Your Board could choose to deny the Amendment. However, it is not staff's recommendation to do so as this would impede our ability to maintain an accurate record of legal proceedings.

OTHER AGENCY INVOLVEMENT:

FINANCING: Contingent upon the Board's approval and adoption of the 2012/2013 Child Support Budget 022501 Object Code 5265. No county General Funds.

APPROVALS	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS *(Must be reviewed and approved by county counsel prior to submission to the board clerk.)* Approved: — Date 4-11-12
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS (*Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)* Approved: Yes Date 4/11/12
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.) N/A Approved: _____ Date _____

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received) _____ Date: 4/11/12

AMENDMENT NUMBER 1 TO
AGREEMENT BETWEEN THE COUNTY OF INYO AND
Kristy Keener
FOR THE PROVISION OF INDEPENDENT CONTRACTOR SERVICES

WHEREAS, the County of Inyo (hereinafter referred to as "County") and Kristy Keener _____ , of Bishop, CA_____ (hereinafter referred to as "Contractor"), have entered into an Agreement for the Provision of Independent Contractor Services dated October 24, 2011 _____ , on County of Inyo Standard Contract No. 117 __ , for the term from October 1, 2011 _____ to September 30, 2012_____ .

WHEREAS, County and Contractor do desire and consent to amend such Agreement as set forth below;

WHEREAS, such Agreement provides that it may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties thereto, if such amendment or change is in written form, and executed with the same formalities as such Agreement, and attached to the original Agreement to maintain continuity.

County and Contractor hereby amend such Agreement as follows:

The term of the Agreement will be from Oct. 1, 2011 to June 30, 2013.

The limit payable upon the Agreement shall not exceed $20,000.00 for the term of the contract.

The effective date of this Amendment to the Agreement is date of execution.

All the other terms and conditions of the Agreement are unchanged and remain the same.

AMENDMENT NUMBER 1 TO
AGREEMENT BETWEEN THE COUNTY OF INYO AND
Kristy Keener
FOR THE PROVISION OF INDEPENDENT CONTRACTOR SERVICES

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS THIS _____ DAY OF _____, _____.

COUNTY OF INYO

By: _____

Dated: 4/4/12

CONTRACTOR

By: Kristy Keener
Signature

Kristy Keener
Type or Print

Dated: 04-04-2012

APPROVED AS TO FORM AND LEGALITY:

_____
County Counsel

APPROVED AS TO ACCOUNTING FORM:

_____
County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:

_____
Director of Personnel Services

APPROVED AS TO RISK ASSESSMENT:

_____
County Risk Manager

For Clerk's Use Only:
AGENDA NUMBER

6

AGENDA REQUEST FORM
BOARD OF SUPERVISORS
COUNTY OF INYO

☒ Consent ☐ Departmental ☐ Correspondence Action ☐ Public Hearing
☐ Scheduled Time for ☐ Closed Session ☐ Informational

FROM: HEALTH & HUMAN SERVICES

FOR THE BOARD MEETING OF: April 17, 2012

SUBJECT: Authorize submission of the Child Welfare Self-Assessment

DEPARTMENTAL RECOMMENDATION:
Request Board approve the Child Welfare System County Self-Assessment (CSA) and authorize HHS to submit the CSA to the State Department of Social Services, as required by the Child Welfare Improvement and Accountability Act of 2001, and authorize the chairperson to sign.

CAO RECOMMENDATION:

SUMMARY DISCUSSION:
The California Child Welfare Improvement and Accountability Act of 2001 requires counties to participate in a Peer Quality Case Review (PQCR) process, perform a Child Welfare System County Self-Assessment (CSA), and use peer and stakeholder input from both to develop a System Improvement Plan (SIP). The SIP will identify improvement areas that the Child Welfare and Juvenile Probation divisions will focus on over the next five years.

Inyo County Child Welfare and Juvenile Probation divisions hosted a PQCR in June 2011. Then, during the fall and winter of 2011/12, staff focused in on obtaining community stakeholder input during the self-assessment process. For this CSA, stakeholder input was obtained through Children's Services Counsel meetings; focus groups with local foster children, foster parents and biological parents who have been involved in the foster care system; one-on-one meetings with Health and Human Services staff, Probation staff, and community members; and through electronic surveys and correspondence with various service providers.

Upon Board approval, the CSA will be submitted to the California Department of Social Services, and staff will complete the process of identifying improvement areas for the System Improvement Plan, which is due in June, 2012. Please see the attached Child Welfare Self-Assessment.

ALTERNATIVES:
The Board could choose not to approve submission of the Self-Assessment. Should this occur, the State Department of Social Services would be notified that stakeholders in Inyo had not yet reached consensus about the strengths and weaknesses of the Inyo County child welfare system.

OTHER AGENCY INVOLVEMENT:
Input from stakeholders and other community partners including, but not limited to, families involved in the child welfare and/or juvenile probation systems, foster parents, probation, law enforcement, education, local tribes, and the juvenile court.

FINANCING:
None

APPROVALS	
COUNTY COUNSEL:	**AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS** *(Must be reviewed and approved by County Counsel prior to submission to the Board Clerk.)* Approved: yes 4/9/2012 Date:
AUDITOR/CONTROLLER:	**ACCOUNTING/FINANCE AND RELATED ITEMS** *(Must be reviewed and approved by the Auditor/Controller prior to submission to the Board Clerk.)* Approved: _____ Date:
PERSONNEL DIRECTOR:	**PERSONNEL AND RELATED ITEMS** *(Must be reviewed and approved by the Director of Personnel Services prior to submission to the Board Clerk.)* Approved: _____ Date:

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received) Jean Turner Date: 4-9-12

County Self-Assessment Cover Sheet (continued)

Submitted by each agency for the children under its care	
Submitted by:	**County Child Welfare Agency Director (Lead Agency)**
Name:	**Jean Turner, ICHHS Director**
Signature:	Jean Turner
Submitted by:	**County Chief Probation Officer**
Name:	**Jeffrey Thomson, Chief Probation Officer**
Signature:	

In Collaboration with: County & Community Partners	Name(s)	Signature
Board of Supervisors Designated Public Agency to Administer CAPIT/CBCAP/PSSF Funds	Jean Turner, Director, ICHHS Director	Jean Turner
County Child Abuse Prevention Council	Pamela Blackwell, Chair Children's Services Council	Pamela Blackwell
Parent Representative	Becky Rambeau	
As Applicable[1]	**Name(s)**	
California Youth Connection	Not Applicable	
County Adoption Agency (or CDSS Adoptions District Office)	Kern County Department of Human Services, Adoption Agency	
Local Tribes	Margaret Romero, Bishop ICWA Representative	
Local Education Agency	Dr. Terrance McAteer, Inyo County Superintendent of Schools Joel Hampton, Superintendent, Owens Valley Unified School District	

Board of Supervisors (BOS) Approval	
BOS Approval Date:	
Name:	
Signature:	

☒ Name and affiliation of additional participants are on a separate page with an indication as to which participants are representing the required core representatives.

[1] **As applicable**, provide the name of a representative from each of these entities as pertinent to relevant outcomes (the adoption composite would include a representative that was engaged in that portion of the CSA, likewise, IEP measure (5A), IWCA (4E), etc. No signature is required.

California's Child and Family Services Review County Self-Assessment Cover Sheet	
County:	**Inyo County**
Responsible County Child Welfare Agency:	**Inyo County Health and Human Services** **Adult and Children's Services Division**
Period of Assessment:	**November 2011-March 2012**
Period of Outcome Data:	**July 2011 (Q4 2010 Data Extract)**
Date Submitted:	
County Contact Person for County Self-Assessment	
Name & title:	**Megan Solorio**
Address:	**162 Grove Street, Suite J, Bishop, CA 93514**
Phone:	**760-872-1727**
E-mail:	**msolorio@inyocounty.us**
CAPIT Liaison	
Name & title:	**Marilyn Mann, Social Services Director**
Address:	**162 Grove Street, Suite J, Bishop, CA 93514**
Phone:	**760-872-2375**
E-mail:	**mmann@inyocounty.us**
CBCAP Liaison	
Name & title:	**Marilyn Mann, Social Services Director**
Address:	**162 Grove Street, Suite J, Bishop, CA 93514**
Phone:	**760-872-2375**
E-mail:	**mmann@inyocounty.us**
County PSSF Liaison	
Name & title:	**Marilyn Mann, Social Services Director**
Address:	**162 Grove Street, Suite J, Bishop, CA 93514**
Phone:	**760-872-2375**
E-mail:	**mmann@inyocounty.us**

Inyo County
California Child and Family Services Review

County Self-Assessment
For Child Welfare and Juvenile Probation Services

April 2012

Inyo County C-CFSR Self-Assessment

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Inyo County

California County Child and Family Services Review

County Self-Assessment Participants

The Inyo County Self-Assessment planning committee included representatives of both the Health and Human Services and Probation Departments. In coordination with the California Department of Social Services Outcomes and Accountability Bureau and Office of Child Abuse Prevention, the following county representatives participated on the planning committee:

Name	Title	Department
Marilyn Mann	Social Services Division Director	Health and Human Services
Jacob Morgan	Deputy Director of Adult and Juvenile Services	Probation
Krista Cooper	Social Worker Supervisor, CWS	Health and Human Services
Anna Scott	Management Analyst	Health and Human Services
Megan Solorio	Human Services Supervisor, CWS	Health and Human Services

Multiple community and consumer stakeholders participated in the self-assessment process, primarily through focus groups, planning meetings, and surveys. A complete list of participants is included in Attachment B.

Demographic Profile (Both Foster Care and General Population)

Demographic Profile

Inyo County is a rural, geographically isolated county located between the eastern part of the Sierra Nevada mountain range and the California/Nevada border. It is the second largest county in California in terms of land area, with 10,180 square miles, and is the tenth largest county in the nation. However, Inyo County has a sparse population of only 18,546 people (1.8 people per square mile). Ninety-two percent of the land is owned by the Federal Government, 3.9% is owned by the City of Los Angeles, and 2.4% by the State. Only 1.7% of the land is under private ownership.

Based on population data from the 2010 Census, most Inyo County residents (pop. 13,304) live in the northern region of the county, in and around the city of Bishop. Sixty miles south is the next largest region with 2,316 residents (includes Lone Pine, Olancha, Darwin, and Keeler). The communities of Big Pine (pop. 1,816) and Independence, the county seat (pop. 723), are located between Bishop and Lone Pine. The southeastern region of the county includes Death Valley, Tecopa, and Shoshone (pop. 638) and is located near the California/Nevada border, two hours from Lone Pine.

Distance and weather conditions can pose a significant barrier to accessing services, both within the county and the surrounding area. US Highway 395 is the main north-south route, joining many of the communities the length of the county. Residents must often travel great distances, by two to five hours, to obtain services that are not available within the community but are typically found in larger metropolitan areas. To the north, the nearest large population centers are Carson City and Reno, Nevada, a three to four hour drive from the northernmost communities in Inyo County. It is a five-hour drive by car to reach California cities such as Los Angeles and Sacramento from the Bishop-area. Horizon Air and Delta Airlines provide flights from the Mammoth Yosemite Airport, located forty miles north of Bishop, to Los Angeles, San Jose, Orange County, San Diego, and San Francisco. More flights are offered during the winter ski season, but daily flights are available to Los Angeles and the San Francisco Bay Area year-round. The Eastern Sierra Transit Authority offers bus service north to Reno, NV, and south to Ridgecrest, CA, three to four times per week. From Ridgecrest, residents can travel by bus to Los Angeles or Bakersfield.

A majority of the County's resources are based in the Bishop area with some level of countywide outreach to outlying communities. The level of service intensity varies depending upon geographic location, availability of private service providers, and county staff availability. Distance to services and related transportation logistics and costs to residents and agency staff limit service availability.

Area Tribes.

There are five recognized tribal entities in Inyo County, which are located in Bishop, Big Pine, Independence, Lone Pine and Furnace Creek. Native Americans and other qualified residents may receive services through the Toiyabe Indian Health Project, Inc. Toiyabe offers primary healthcare and dental clinics, dialysis, and behavioral health services. They operate clinics in

Bishop and Lone Pine, with outreach services to the other communities in Inyo and Mono Counties.

Demographics.
Demographic data from the 2010 Census annual population is provided below.

Race/Ethnicity	**General Population**	**Percentage**
Total Population	18,546	
White (not of Hispanic or Latino heritage)	13,741	74.1%
Hispanic or Latino (of any race)	3,597	19.4%
Black or African American	109	0.6%
American Indian and Alaskan Native	2,121	11.4%
Asian	243	1.3%
Native Hawaiian or Pacific Islander	16	0.1%
Two or More Races	640	3.5%
Other/Missing	1,676	9%

Source: 2010 Census

The population in Inyo County has increased 3.3% from 2000 to 2010, with the median age being 45.6 years old. The chart below details the age and gender information.

Sex and Age	Number	Percent
Male	9,354	50.4%
Female	9,192	49.6%
Total	**18,546**	**100%**
Under 5	1,071	5.8%
Under 18	4,154	22.4%
18-64	9,786	58.6%
65 and older	3,535	19.0%

Source: 2010 Census estimates

The 2010 Census data on households show some differences compared to the 2000 Census data. Total family households (families) are 60% (4,833) of the population, a decrease from the 2000 report of 64.1% (4,937). Off these, 44% have children under the age of 18 (2,146). Non-family households increased to 40% (3,216) from the previous 35.9% (2,766). The non-family householders increased from 31.4% (2,416) individuals living alone to 33.9% (2,729) individuals living alone. The female householder statistic slightly increased from 762 households in the 2000 census to 808 for the 2010 census. This information should be watched carefully as female-led households are often comprised of minimum-wage income earners; 30% of female-lead households are living below the poverty line.

Household Occupancy	Number	Percent
Total Households	**8,049**	**100**
Family Households (families)	**4,833**	**60.0%**
With own children under 18	*1,844*	22.9%
Married couple family	3,612	44.9%
With own children under 18	*1,189*	14.8%
Female householder (no husband)	808	10.0%
With own children under 18	*445*	5.5%
Male householder (no wife)	*413*	5.1%
With own children under 18	*210*	2.6%
Non-family householders	**3,216**	**40%**
Householder living alone	2,729	33.9%
Householder 65 years or older	1,129	14.0%

Source: 2010 Census

Economic and Employment Data.

The Federal Poverty Level is $18,530 for a family of three in 2011. The US Census reports that 9% of families, and 14.2% of Inyo's children ages 0-17, are living in households below the federal poverty guidelines, a decrease from 16% of children reported in the previous County Self-Assessment. However, when looking at female heads of household with no male present, an astonishing 29.3% of children under the age of 18 are living in poverty in Inyo County.

Due to the high cost of living in California, the federal poverty guideline is considered substandard. A full time minimum wage worker in California earns an annual salary of $16,640. The Federal Department of Housing and Urban Development (HUD) sets the following guidelines that define low-income levels for Inyo County (based on a median family income of $57,500):

INYO COUNTY	**HUD 2010 Housing Income Limits**							
# of Persons in Family	1	2	3	4	5	6	7	8
30% of Median	12650	14450	16250	18050	19500	20950	22400	23850
Very Low Income	21100	24100	27100	30100	32550	34950	37350	39750
Low Income	33750	38550	43350	48150	52050	55900	59750	63600

Source: US Dept. of Housing & Urban Development

The Insight Center for Community Economic Development goes a bit further in estimating the income a family needs to generate in order to be completely self-sufficient. While the federal Poverty Line calculation is based solely on the cost of food, the Self-Sufficiency Standard established by Insight is geographically based and also takes into consideration the cost of housing, child care, transportation, health care and taxes. For a family of three, the annual self-sufficiency income would be between $34,816 and $44,757, depending on the age of the child.

According to data provided by the U.S. Bureau of Labor Statistics, unemployment rates have slightly increased since the previous County Self-Assessment. As of October 2011, the unemployment rate was 9.3%; this rate was 6.8% in October 2008. The most recent estimates from the Bureau of Labor Statistics put the unemployment rate in Inyo County between 10.0% and 11.9%, with the overall state unemployment rate at 12.4%.

The latest data for CalWorks shows 1.7% of Inyo County's population receives CalWorks assistance, which equates to 325 participants. For the 2010/2011 state fiscal year, roughly 34 families received assistance each month. This was broken down to ten two-parent families and 24 all/other families.

Educational Data.
According to the California Department of Education (CDE) website, there are 3,475 children enrolled in some form of schooling for the 2009-2010 academic year. There are eight school districts in Inyo County. Approximately eight percent, or 279 students, are enrolled in some form of special education classes. The 2011 Child Care Portfolio, which covers data from 2008 to 2010, created by the California Child Care Resource and Referral Network. In this report, the average amount of children on the childcare waitlist was 17 children.

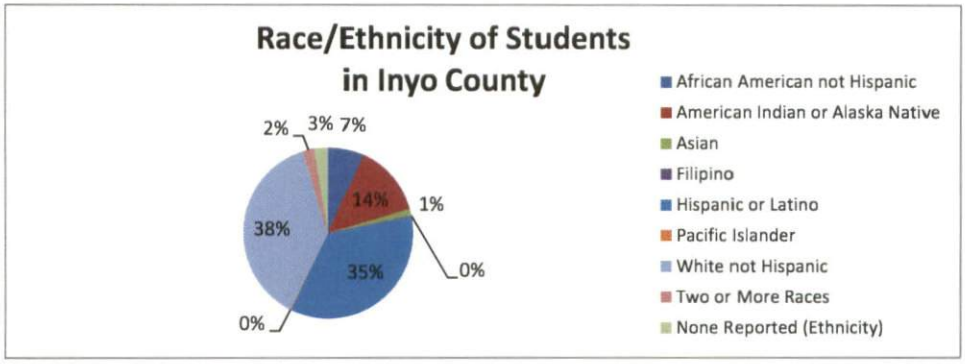
The CDE website also reports dropout rates for area schools. However, since data is not captured in many of the very small schools, the overall county dropout rate reported on the website (46%) is not accurate. Dropout rates for individual districts are listed below.

CDE Cohort Outcome Data for the Class of 2009-10		
Inyo County School District	**Cohort Students**	**Cohort Dropout Rate**
Big Pine Unified	19	**15.8%**
Bishop Unified	202	**15.8%**
Death Valley Unified	*	**12.5%**
Lone Pine Unified	39	**5.1%**
Owens Valley Unified	*	**0.0%**

Source: CA Department of Education 2009-2010
*For confidentiality, small cohort numbers are not reported.

The subsidized school lunch program uses a different enrollment total when calculating the percentage of students participating in this program. Of the 3,619 students accounted for, 51.4% (1,859) partake in the subsidized school lunch program and either receives free or reduced-cost lunch. This is less than the state average of 55.9% of all California students enrolled in the free or reduced-cost lunch program.

The racial and ethnic makeup of students enrolled in Inyo County schools is somewhat racially diverse. Over two-thirds of students are either White (not of Hispanic or Latino origin), or Hispanic/Latino. About 14% of the student population is Native American/Alaskan Native. Student enrollment based on race/ethnicity for the 2009-2010 academic year is found on the following page.



Source: CA Department of Education 2009-2010

Public Health Data.

California Department of Public Health reported in 2009 (the last year data was available for this report), there were 239 recorded live births for Inyo County. Of these, 9.6%, or 23 newborns, were born to teen mothers. This is almost on par with the state average of 9.1% of live births being to teen mothers. There were eight newborns, or 3.4%, with late or no prenatal care. Seventeen, or 7.1%, of newborns in Inyo County had a low birth weight. This is slightly above the state average of 6.8%. The chart below draws comparisons between the 2006 and 2009 calendar years:

Characteristics	2006 Data (number/%)	2009 Data (number/%)
# of Live Births for Inyo County	250	239
# of births to Teen Moms	31 (12.4%)	23 (9.6%)
No/late prenatal care	28 (11.2%)	8 (3.4%)
Low birth weight	22 (8.8%)	17 (7.1%)

Source: CA Dept. of Public Health

The data indicates many aspects to teen pregnancy are improving in Inyo County. No or late prenatal care had the largest percentage decrease among the characteristics investigated, which may have a direct correlation to the outcomes listed in the 2008 County Self-Assessment: specifically, families have the enhanced capacity to provide for their child's needs.

The Department of Public Health recorded immunizations for children entering kindergarten for the 2010 academic year. Of the 220 incoming kindergarteners in Inyo County, 211 students (95.9%) received all required immunizations prior to the first day of school. No students were enrolled under permanent medical exemptions; six students (2.7%) enrolled under personal belief exemptions, meaning the immunization process is against a parent's personal beliefs. Three students (1.4%) enrolled under conditional entrance.

CWS Participation Rates

Demographic data and caseload data for Inyo County illustrate the low number of residents and child welfare/probation cases in the county. To maintain confidentiality, actual numbers were

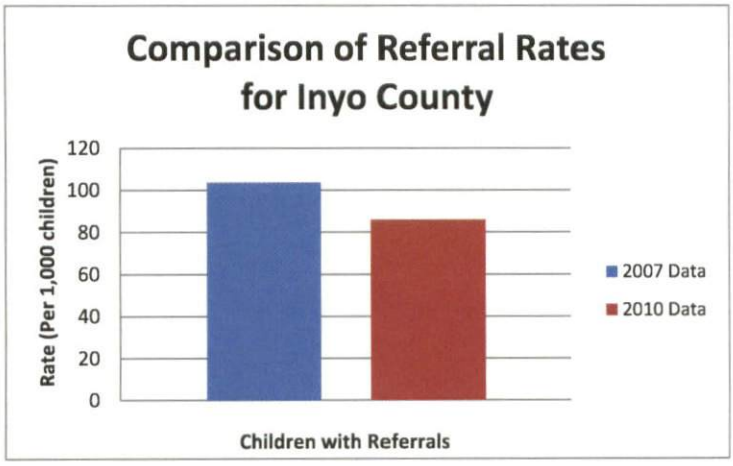
not reported. Inyo County must cautiously approach data analysis, as the numbers reported often lack statistical validity and cannot alone be used to identify trends or service gaps.

Because of high turnover rates in Child Welfare, staff have struggled in the past to input data to CWS/CMS in a timely manner, resulting in inaccurate outcome reports. While Child Welfare continues to experience a higher turnover rate, the data entry backlog has significantly decreased due to increased supervisor oversight and the consistent use of SafeMeasures® reports. Outcome indicators extracted from the CWS/CMS Dynamic Report System are thus more reliable. However, as previously mentioned, low caseload numbers will always impact the validity of statistics related to Inyo County Child Welfare and Probation services.

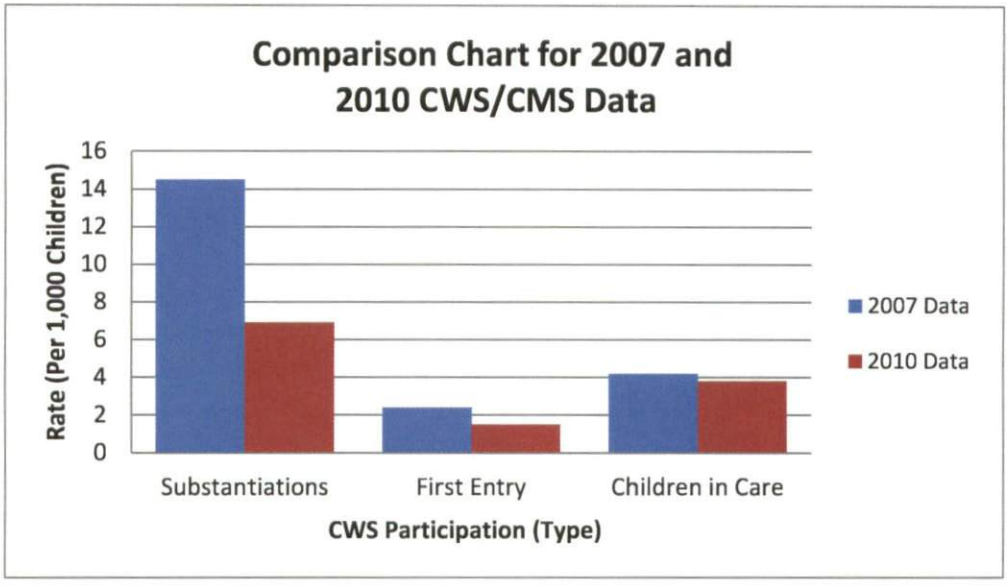
Probation is has not started tracking data through the CWS/CMS system, so conclusions regarding Probation's practices relied largely on stakeholder input and feedback, as well as supervisor and manager experience.

Child Welfare Services Participation Rates in 2010.

As previously reported, 21% of Inyo County's population is comprised of children age 0-18, which equates to 3,894 Inyo County residents. The CWS/CMS Dynamic Report System used an estimated child population for Inyo County of 3,836 in 2010. For the 2010 calendar year, the number and rate of children with referrals was 336 (8.76%; 85.9 per 1000 children). A chart with this breakdown may be found on page 32. Twenty-two of these referrals (6.9 per 1000 children) were substantiated; six (1.5 per 1000 children) children had his or her first entry into the system. At the time of this report's drafting, in the fall of 2011, 15 (3.8 per 1000 children) individuals were listed as children in care. The charts below compare the data from the previous CSA to the current information found with the CWS/CMS Dynamic Report System:

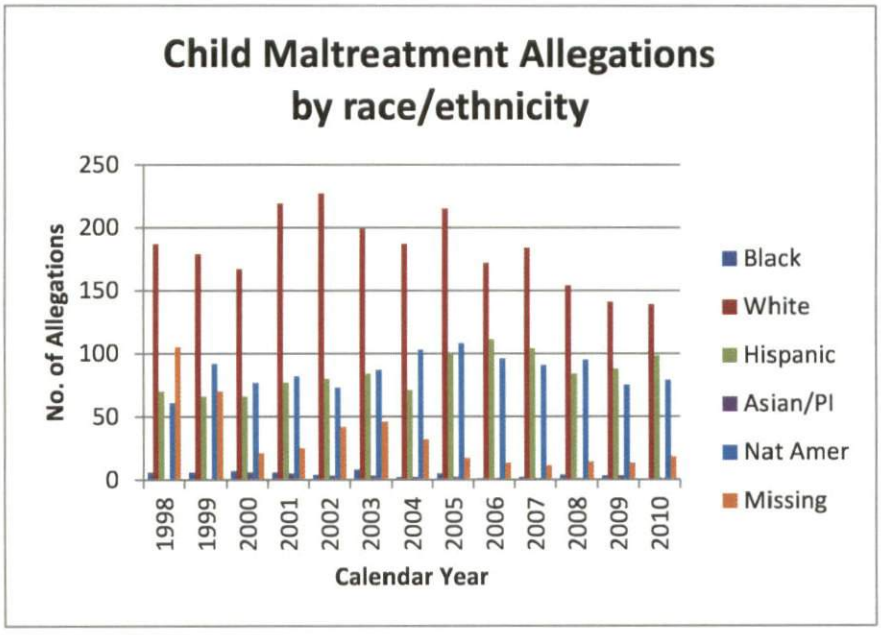


Source: CWS/CMS Dynamic Report System



Source: CWS/CMS Dynamic Report System

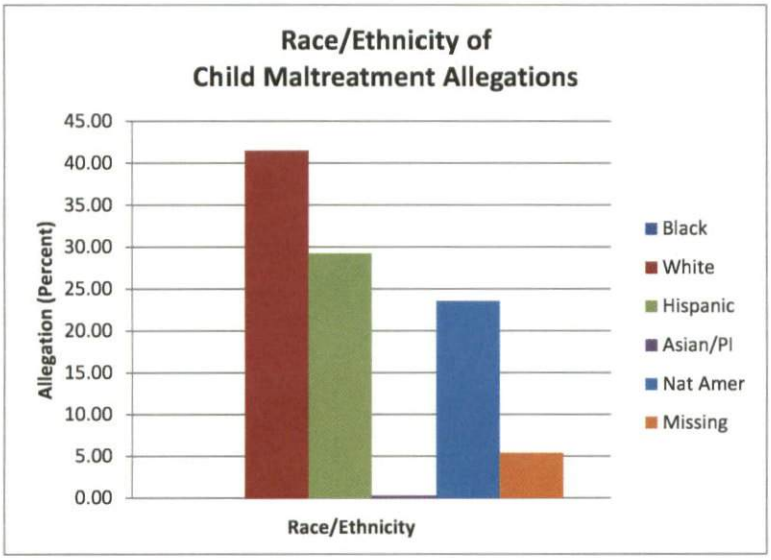
As both of the previous charts indicate, all four indicators have decreased since the 2008 County Self-Assessment.



Source: CWS/CMS Dynamic Report System

Using the Child Welfare Dynamic Reporting System, a chart was created to show the number of child abuse allegations over the past decade, broken down by race/ethnicity per calendar year. The chart seems to show a steady decline in White and Asian/Pacific Islander allegations over the past four years. This was also true of Hispanic and Native American/Alaskan Native children, but these demographics began increasing with the 2009 data. Since a portion of the data is under "missing" it would be interesting to find how these numbers change if that data were present.

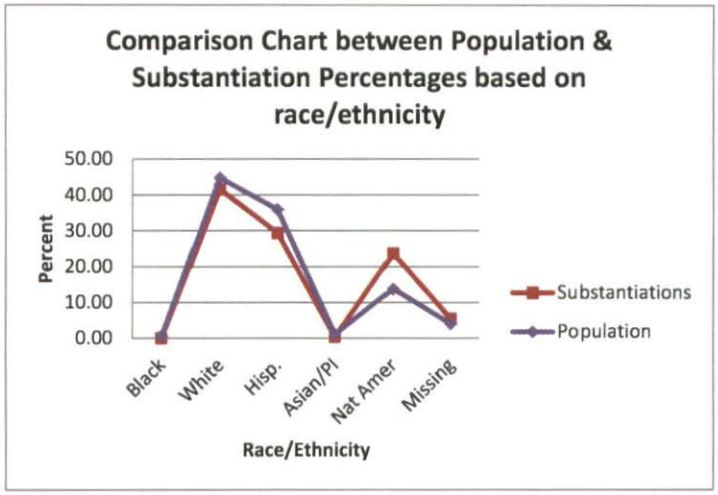
For 2010, there were 335 child maltreatment allegations in Inyo County. The majority of these allegations (139; 41.5%) were children who are White, 29.2% (98) are Hispanic, and 23.6% (79) are Native American/Alaskan Indian; there were no allegations for Black children:



Source: 2010 CWS/CMS Dynamic Report System

During the 2010 calendar year, there were 27 substantiations from these allegations. Fifteen of these allegations (55.5%) were White children, while nine (33.3%) were Hispanic, and three (11.1%) were Native American/Alaskan Indian.

When looking at the race/ethnicity demographics of the child population in Inyo County, it is important to note how the substantiation and allegation percentages reflect the child population of the county as a whole. It is important to try to have data be reflective of the community it is coming from. Below is a graph that compares the child population as a whole to the substantiation race/ethnicity percentages for the county.



Source: 2010 CWS/CMS Dynamic Reporting System

Looking at the chart, the percentage of substantiations by race/ethnicity reflects the community the data is being pulled from fairly accurately. There is a slightly lower child maltreatment substantiation rate among White and Hispanic children. However, the chart indicates that there is a disproportionality of substantiations among Native American/Alaskan Native children. Although there is this disproportionality, there are also a number of community service providers in this county whose sole purpose is to help members of this community in some capacity. Since 109 members of the community are African-American or Black, the reporting system has very few, if any, allegations for this ethnic group. As African-American or Black individuals are disproportionately represented in a number of statistics, it is interesting to note how our community does not continue to misrepresent this population through an unwarranted over-reporting. It is important to note that due to the county's low child population (roughly 3,900 residents); a handful of instances can skew the results in either a positive or negative direction.

Public Agency Characteristics

Size and Structure of Agencies Within the County

County Operated Shelters.
Inyo County does not operate a children's shelter.

County Licensing.
Inyo County's Children's Social Services division is responsible for licensing foster family homes through a Memorandum of Understanding (MOU) with California Department of Social Services. Inyo County is currently one of three counties with an MOU with California Department of Social Services.

County Adoptions.
Inyo County utilizes the services of Kern County Department of Human Services Adoption Agency through an MOU. Children have primarily been either returned to their parent or entered a guardianship with the caregiver. Those children who remain in permanency planning have obstacles hindering the completion of an adoption by Kern County Adoption Agency.

The Kern County Adoption Agency is a full-service pubic adoption agency licensed by the State of California. Besides serving Kern County citizens, the agency also contracts to provide adoption services to Inyo County. The agency serves all three members of the adoption triad. Agency social workers counsel birth parents seeking to voluntary relinquish their parental rights and allow their children to be placed for adoption. The agency can accept children from birth parents and place them under care in foster homes while the best match is made with prospective adoptive parents. Agency social workers can accept voluntary relinquishments and conduct permanency-planning assessments of the children. Agency social workers conduct home studies of people who submit applications to adopt. If birth and adoptive parents (and, if old enough, the child) wish to establish a contract for post-adoptive contact, agency social workers can facilitate such a contract.

Besides voluntary relinquishments, the Kern County Adoption Agency also processes adoptions of dependents of the Juvenile Court. Agency social workers conduct permanency-planning assessments of children referred by the Juvenile Court. Following termination of parental rights by the Court, agency social workers facilitate Adoptions Assistance Program agreements with prospective adoptive parents and conduct adoptive placements. The agency supervises the adoptive placements until the court finalizes the adoption.

County Government Structure

Inyo County Health and Human Services (ICHHS) is organized into one department and is considered a "super agency." ICHHS is responsible for providing Child Welfare services, as well as Public Health, Mental Health, Substance Use, and Social Services, and also includes the Area Agency on Aging, WIC, and First 5. Probation is a separate department within the county structure and coordinates its Child Welfare cases and placements with the ICHHS Adult and

Children's Services division. These are identified by their respective organizational charts, which are located in the appendix.

Staffing Characteristics/Issues.
Core Child Welfare services, including Emergency Response, Family Maintenance, Family Reunification, and Permanency Planning are combined in Inyo County's Child Welfare division, and are provided by county-employed Social Workers. The authorized workforce within the core Child Welfare unit is six Social Workers and one Social Worker Supervisor. However, due to the financial climate of the county, ICHSS has maintained one vacant position since 2008. One of the funded, case-carrying Social Worker positions was vacated in November, 2011, and the County is currently recruiting to fill that vacancy. An organizational chart for Inyo County Child Welfare Services is included in the Appendix.

Within the core Child Welfare unit, four Social Workers are case-carrying, with an average caseload of four to six Emergency Response calls per month, six to eight Family Maintenance and/or Voluntary Family Maintenance cases, four to five Family Reunification cases, and approximately two Permanency Plan cases per month. Two social workers are non-case-carrying and assist both Child Welfare and Probation with placements, though only one position is currently filled. The placement Social Worker completes all placement assessments for Emergency Response, Child Welfare Services, Probation, and Mental Health. All Social Workers in the core Child Welfare unit share the responsibility of handling Emergency Response during regular work hours as well as after-hours and weekend on-call.

As previously stated, adoption services are contracted through Kern County Adoption Agency. At the time of this report, there are currently no private contractors working with either Child Welfare Services or Probation to deliver services.

Outside the core Child Welfare unit, there is one Child Welfare Social Worker IV position assigned exclusively to the Wraparound services team, and one Social Worker II who is responsible for the Independent Living Program (ILP) and Transitional Housing Program-Plus (THP-Plus) services.

While caseloads for the core Child Welfare unit have declined over the past three years, the workload has intensified due to an increase in cases involving younger children because of the bonding period between child and parent(s) which occurs at these developmental stages. Social Workers are conducting home visits as often as daily with families in order to support children in their own homes. In addition to the intensity of services, Social Work staff workloads have been impacted by the implementation of regulations that continue to be mandated. It is not uncommon to receive updates from a number of sources, including quarterly communications, monthly community care licensing memos, or information from other entities about amendments to policies and procedures.

Juvenile Probation services are provided by three Probation Officers, two of whom are responsible for case management services to youth in placement, in addition to responding to referrals and managing formal and informal caseloads. The third Probation Officer is assigned exclusively to the interagency Wraparound services team. The two core POs are supervised

directly by the Deputy Director of the Probation Department, who is responsible for overseeing both the Adult and Juvenile Probation Divisions. The Deputy Director shares oversight of the Wraparound PO. The average experience in the juvenile probation division is roughly 18 months.

The formal Juvenile Probation caseload averages between 80 and 100 cases, while the informal caseloads average 25 cases per officer. As of December 2011, there are five probation youth placed in group-home care, and six probation youth placed in local Wraparound services. All group home placements are outside of Inyo County and require staff to travel for required monthly face-to-face contacts. Currently, there is one youth placed locally with a guardian.

Recruiting qualified staff for any county position, including Child Welfare Services and Juvenile Probation, is a challenge due in part to the high cost of living, remote geographical setting, and lack of affordable housing. In addition, there are no universities or 4-year colleges in the area, the closest being three-and-a-half hours away. Thus, the department is unable to utilize interns and must rely primarily upon on-the-job training for staff. Despite these challenges, both the child welfare and Juvenile Probation units are almost completely staffed for the first time in several years. However, recent new hires are assigned a combined core service workload, and must learn all aspects of Child Welfare and Probation, which takes approximately 18-24 months. Most core training is provided outside Inyo County and often requires two additional days away from the office for travel time.

Due to Inyo County's small population, new situations may continue to arise at any time, as the rate of occurrence for any specific incident is low. Therefore, it may take several years before an Inyo County Social Worker or Probation Officer can be considered "seasoned." This can also be challenging since the county's social worker turnover rate is 20%, or approximately one out of the five Child Welfare social workers resigns from employment with the county each year.

Bargaining Unit Issues.
As financial resources have diminished and will continue to diminish for the county, it behooves the department to monitor negotiation challenges because at some point the County's ability to provide service may be impacted. For Child Welfare staff, it is a continual challenge to manage overtime scheduling issues and to control fluctuating costs.

The Bargaining Unit that represents a majority of County employees takes a strong stance on issues that either add to or take away from an employee's job duties or other work parameters, such as work-site or scheduling changes. As Inyo County Child Welfare Systems are revised and improved to meet the Child Welfare and Accountability Act requirement, a greater level of flexibility in staffing or change in mode of service delivery (e.g. contracting for a specific service) may be recommended. Before any recommendations that impact an employee and his/her employment parameters can be implemented, union representatives must be consulted to agree on or negotiate changes. At the time of this report, there are not any bargaining unit issues specific to Child Welfare Services.

Financial/Material Resources.
As a small county with limited resources, it is challenging to identify sources of flexible funding and opportunities that could support Child Welfare Services. Collaborative efforts are limited by low population; fewer local resources and funding source limitations, as well as there are only a few Community Based Organizations (CBOs), who also experience tight budgets. As a result, our prevention funds are expended primarily by the Child Welfare agency for direct services, as the limited funds do not allow for the cost of implementing many evidenced based programs.

Interagency Collaborations. During the 2011-2012 fiscal year, Inyo County First 5 chose to partner with Inyo County Health & Human Services with a recordable book project. Funding was received through a grant given by a local business. The months-long project focuses on parents involved in court-ordered family maintenance or family reunification services; the parent will record his/her voice in the book, which will allow the child to read along while hearing his/her parent's voice. The overall goals of the project include increasing parent resiliency, increasing the child's emotional stability, and attempting to create a positive habit for the family to continue with after their involvement with Child Protective Services is terminated. Although this is the county's first year implementing this project, if results are promising, this is an activity both agencies would like to continue and build on for future years.

In September 2011, Karen Kong, Human Services Supervisor, programmed "Celebrating Recovery" for Inyo County. Along with drug court personnel, private substance use treatment providers, county based treatment providers, faith-based organizations, and persons in recovery, events and activities were created to support and embrace recovery. Anecdotally, county staff were able to interact with five families who were previously involved in drug or alcohol use, but were celebrating their own sobriety or supporting a family member in his or her recovery path. Since over half of referrals have some sort of substance use issue at the time of child protective services involvement, embracing and supporting recovery is an important aspect to the work the county is completing with its families, as the support has an over-arching impact on the children in the community.

Community Based Child Abuse Prevention. Through the Community Based Child Abuse Prevention (CBCAP) fund, $26,323 is available to support community prevention activities. Historically, our community has identified the very isolated southeast area of our county as a target for these funds. The southeast region of our county includes Tecopa, Shoshone, and the Death Valley region, which is approximately three to four-and-a-half hours from the primary population base in Bishop, California. These monies partially fund two full-time staff that provide a wide range of Social Service and related Health and Human Services to community members. Services include prevention education, outreach, referrals, transportation, and other supportive services. The staff in this remote, outlying area are instrumental in the early identification of children and family in need of support, as well as providing support as directed through Social Services, Behavioral Health, and prevention programming.

Child Abuse Prevention Intervention and Treatment. The Child Abuse Prevention Intervention and Treatment (CAPIT) fund of $60,000 had previously been contracted with a local CBO to provide home-based parent education and support. However, within the last four years, the CBO, citing increased administrative costs that cannot be fully covered by the grant,

discontinued their contract with the county. After three failed attempts to find an alternative service contractor through a formal Request for Proposal process, the county worked with the State to obtain authorization to implement the funds directly. However, given that the county would be required to again put the monies out for bid at the next funding cycle, use of the funds to re-establish a home-based program did not appear to be feasible. At this time, the county is seeking a vendor to provide an array of parent education programming, and is hopeful that the current self-assessment process will inform the county where to best focus the funds for the future.

Promoting Safe and Stable Families. Promoting Safe and Stable Families (PSSF) provides $11,423 to the county to support families involved with Child Welfare Services. Given the limited resources, Child Welfare individualizes the use of these funds to meet the specific needs of families that will help to promote stability, reunification and permanency. Direct services such as transportation, child care, and respite care are examples of the types of services that are used to meet the individual needs of our families.

The Children's Trust Fund. The Children's Trust Fund (CCTF) dollars received by the county average approximately $4,600 per year. This very small amount of funding is often insufficient to provide any meaningful programming and is sometimes accrued in order to be able to pool the resources for more effective services. Recommendations as to how these funds are used are made by the Children's Services Council, which is also our designated Child Abuse Prevention Council (CAPC). The CAPC has made the decision to split these funds between the northern and southern regions of the county and the southeastern county territory. Entities submit proposals for the use of these funds and the CAPC takes the requests under consideration then makes a recommendation for use. The county then contracts with the identified entity for the funds usage. In the past, these funds have been used to support summer activities, domestic violence education symposiums, and parent education programs.

Political Jurisdictions.

Tribes. There are five recognized tribal groups in Inyo County, located in Bishop, Big Pine, Independence, Lone Pine, and Furnace Creek. Native Americans receive services through the Toiyabe Indian Health Project, Inc. Toiyabe has clinics in Bishop and Lone Pine, with outreach services to the other communities. Stakeholders report that relationships between the tribal representative, Toiyabe Indian Health Project, and county Child Welfare systems are positive. Since there is a disproportionate number of Native American youth in the Child Welfare and Probation system in Inyo County, these agencies must continually work to effectively coordinate services for these children. County staff is knowledgeable about ICWA services and place a high priority on keeping children in their communities or with family members of Native American descent as often as possible.

School districts/local educational agencies. There are seven school districts within Inyo County; each is also a Local Education Agency (LEA). The Social Services Director previously conducted annual in-service meetings for school staff to be educated as to the scope, roles, and responsibilities of Child Welfare Services. However, the Superintendent of Schools chose to complete its own in-house training through another organization. Since this change, there have been misunderstandings about expectations with those who provide direct services to children

who are within the traditional school setting (i.e. teachers and social workers/probation officers). While relationships are not adversarial, there exists confusion around expectations as to what level of intervention Child Welfare should or should not be providing; in keeping with high community standards for behavior, there can be a lack of tolerance within the schools for the child's circumstances and resulting difficult behaviors. Through completing a focus group with various professionals in the community, it was suggested that Child Welfare staff may begin to conduct its own trainings as a way to introduce Child Welfare staff to the education professionals in the different districts. Each party may discuss its purpose, concerns, and recommendations as to how to better improve the reporting process, which may decrease this confusion between both parties.

There are alternative educational settings (e.g. community schools) available for children whose needs are better served outside the traditional school setting. These schools tend to have a higher percentage of youth on probation and are more welcoming of Probation's presence. When children involved in Child Welfare and/or Probation enroll in these non-traditional school settings, fewer tensions exist between Child Welfare, Probation, and school staff because in general, there are higher needs among the entire school population resulting in a higher degree of tolerance for the many challenging issues a Child Welfare or Probation child may bring to the educational setting.

Law enforcement agencies. The County of Inyo receives law enforcement assistance by either the Bishop Police Department or the Inyo County Sheriff Department, depending on housing jurisdiction. Staff from Child Welfare and Probation work with the Bishop Police Department officers in a manner similar to that of all Inyo County law enforcement agencies. Stakeholders report effective and cooperative working relationships between law enforcement and Child Welfare systems. Through joint investigations, staff from both entities work together and assess the safety of children who are potentially at imminent risk of harm. Child Welfare staff noted that turnover in law enforcement staff necessitates ongoing training and information sharing so that new officers are aware of the roles and responsibilities of child welfare.

Juvenile court. The Inyo County Juvenile Court has adopted a dual status protocol, per the requirements of AB 129. Children in Child Welfare Family Maintenance and formal Probation cases are both dependents and wards of the court and individualized case planning is coordinated through Child Welfare and Probation. The Inyo County Juvenile Court Judge has also established a juvenile cabinet to address the disproportional number of Native American youth involved with the Child Welfare and Probation systems. The cabinet includes the judge, local tribal representatives, the Superintendent of Schools, representatives from Mental Health, Substance Use Disorder services, Social Services, and Probation. In addition, the Juvenile Court Judge and the ICHHS Director co-chair the Inyo County Foster Care Commission (FCC). The goals of the FCC include identifying and resolving system concerns; implementing recommendations from the Blue Ribbon Commission; and building the capacity to provide a continuum of services to children and families. A goal of the previous SIP was to implement TDMs early on in the case planning process. However, with the three-year time-limit for the previous SIP, the county was unable to establish and implement its plan for TDMs; rather, this goal has been continued for the upcoming SIP.

Cities. Bishop is the only incorporated city within Inyo County. The majority of Child Welfare and Probation services are headquartered in Bishop. With few resources in outlying areas, there can be delays due to travel time when working in remote areas of the county.

PQCR Summary

Inyo County conducted a Peer Quality Case Review (PQCR) of Child Welfare and Probation cases June 21-23, 2011, in accordance with the requirements of the California Child and Family Services Review (C-CFSR) process. Child Welfare Services identified placement stability as the focus area for the purposes of this PQCR, and Probation elected to focus on least restrictive placements or promoting positive placements. Peers from throughout California (in both Child Welfare and Probation), plus two local Indian Child Welfare Act (ICWA) representatives, conducted the review and provided insight on the strengths and challenges facing Inyo County.

The peer team concluded the review with a final debrief discussion that included the Child Welfare and Probation staff. The final recommendations are as follows:

Recommendations to improve Placement Stability in Child Welfare placement cases

- Develop a policy and procedure manual.
- Train/develop concurrent case planning.
- Since adoption services are contracted to Kern County Adoptions, involve that agency earlier in the reunification process.
- Formalize information sharing between partners to make the transfer of information in a timelier manner.
- Host multi-disciplinary team meetings with Toiyabe Family Services.
- Add a Team Decision Making (TDM) meeting at the time of removal.

Recommendations to promote positive probation placements

- Create a policy and plan of action to comply with ICWA laws.
- Investigate reintegration services for probation-placed youth.
- Create reintegration plans for youth.
- Host multi-disciplinary team meetings with Toiyabe Family Services.
- Host Family Team Meetings.

Inyo County Child Welfare and Probation reviewed the results of the PQCR and have used the insight gained during this process to inform the CSA, and eventually, a System Improvement Plan (SIP) to complete this cycle of the C-CFSR process.

Outcomes

As a rural county, Inyo County is a relatively safe place to live. Neighbors look out for each other and are willing to speak up if they think something is wrong. Given the nature of the county's small, tightknit communities, multiple reports of suspected child abuse are often received for a single incident. Historically, this has contributed to a relatively high rate of referrals to Child Welfare (approximately twice the statewide average rate). However, only about 50% of these referrals are investigated, as the rest are either duplicates, were referred to other jurisdictions, or did not meet criteria.

According to data found on the UC Berkeley CWS/CMS Dynamic Report System, the rate of children in Inyo County with substantiated child abuse allegations was lower in 2010 than in any of the preceding 12 years. In 2010, 8.1% of the child abuse allegations in Inyo County were substantiated (n=27). Statewide, over 18.5% of allegations resulted in substantiation. Twenty-two percent of the substantiations in Inyo County resulted in out-of-home placements, compared to the statewide rate of 35%.

Stakeholders report that, while Inyo County's caseload consists of those that meet the legal criteria for child abuse, community expectations and high levels of public participation mean that children are usually brought to the systems' attention before they experience extreme forms of abuse. The role of Inyo County's Child Welfare, Probation, Court, and Law Enforcement is often more akin to early intervention, a strategy that can prevent the more serious incidents of abuse that are frequent in metropolitan areas.

The primary and secondary intervention efforts were noticed by the Annie E. Casey Foundation in the 2011-2012 fiscal year. The private organization recognized the unique characteristics and resource challenges the county may have, yet somehow continues to make positive strides in the areas of a child's welfare and increasing his/her family support and stability. The Casey Foundation will be meeting with Child Welfare staff as well as reviewing cases to understand what steps the county is taking to ensure children are, protected from abuse and neglect, have some sort of permanency and stability in their life, and, when possible, children are maintained safely in the home.

A breakdown of child abuse allegations by allegation and disposition type for the period October 1, 2010 to September 30, 2011 is found below. General neglect is the most frequently reported and substantiated type of child abuse allegation. Although there is no specific reporting system to describe what variables the county most often sees when there is general neglect, anecdotally general neglect is often associated with substance use, specifically alcohol or methamphetamine.

Allegation Type	Disposition Type					Total
	Substantiated	Inconclusive	Unfounded	Assessment Only/Evaluated Out	Not Yet Determined	
	n	n	n	n	n	n
Sexual Abuse	2	.	7	37	5	51
Physical Abuse	5	9	24	20	8	66
Severe Neglect	.	.	.	.	.	.
General Neglect	20	24	63	56	15	178
Exploitation	.	.	.	.	.	.
Emotional Abuse	12	6	22	16	1	57
Caretaker Absence/Incapacity	.	.	.	.	.	.
At Risk, Sibling Abused	.	1	.	.	.	1
Substantial Risk	.	.	.	.	.	.
Missing	.	.	.	.	.	.
Total	39	40	116	129	29	353

A child is counted only once, in category of highest severity.
Data Source: CWS/CMS 2011 Quarter 3 Extract. http://cssr.berkeley.edu/ucb_childwelfare/Allegations.aspx

Outcome Measures – CWS Outcomes System Summary for Inyo County 12.21.11 (Q3 2011)

The information contained in the quarterly CWS/CMS outcome reports generally reflects only child welfare data at this time. However, measures 4E (1 and 2) include placement data for both Probation and Child Welfare.

Outcome 1: Children are, first and foremost, protected from abuse and neglect

Outcome Measure S1.1: No Recurrence Of Maltreatment
This measure answers the question: Of all children who were victims of a substantiated maltreatment allegation during the six-month period, what percent were not victims of another substantiated maltreatment allegation within the next six months?

County's Current Performance:
From October 2010 through March 2011, 90.9% of children did not experience a recurrence of substantiated maltreatment within the next six months.

Most recent start date	Most recent end date	Most recent numerator	Most recent denominator	Most recent performance	Most recent performance relative to National Standard	Direction	Percent change
10/01/10	03/31/11	20	22	90.9	96.1	Yes	16.9%

From the baseline year of 2002-03, the number of children who have not experienced substantiated abuse within the next six months has increased from 77.8% to 90.9%. In the most recent period measured, the county achieved 96% of the national standard or goal for this outcome measure, which is 94.6%. This can be associated with attempting to connect with families through a voluntary case, as well as social workers visiting their respective referrals more than the minimum monthly contact that is required by state.

http://cssr.berkeley.edu/ucb_childwelfare/Ccfsr.aspx

Outcome Measure S2.1: No Maltreatment In Foster Care

This measure answers the question: Of all children served in foster care during the year, what percent were not victims of a substantiated maltreatment allegation by a foster parent or facility staff member?

County's Current Performance:

From October 2010 through September 2011, no children were mistreated in foster care.

Most recent start date	Most recent end date	Most recent numerator	Most recent denominator	Most recent performance	Most recent performance relative to National Standard	Direction	Percent change
10/01/10	09/30/11	25	25	100.00	100.3	Yes	0.00%

The county's performance in this area has been very consistent since the baseline year of 2002-03. No Inyo County children who have been place in foster care have been victims of substantiated abuse in the ten years the county has tracked this statistic. The county is fortunate to have a group of foster family parents who have helped the community for over ten years. Although the quantity of foster family homes is low, the relationship the child welfare staff has with each of these homes is one that is based on having a real rapport and treating these families with the dignity and respect they deserve.

http://cssr.berkeley.edu/ucb_childwelfare/Ccfsr.aspx

Outcome 2: Children are safely maintained in their homes whenever possible and appropriate.

Outcome Measure 2B: Timely Response (Immediate Response Compliance)

These reports count both the number of child abuse and neglect referrals that require, and then receive, an in-person investigation within the time frame specified by the referral response type. Referrals are classified as either immediate response (within 24 hrs.) or 10-day response.

County's Current Performance:

From July 2011 through September 2011, all referrals that required an immediate response were investigated within the required timeframe. The report indicates that during the same period, 90.5% of referrals that required a 10-day response were investigated within the required timeframe.

Measure	Most recent start date	Most recent end date	Most recent numerator	Most recent denominator	Most recent performance	Direction	Percent change
Imm.	07/01/11	09/30/11	13	13	100.0	Yes	0.0%
10-day	07/01/11	09/30/11	38	42	90.5	Yes	10.6%

Inyo County has historically struggled to meet the goal for this outcome measure due to data entry issues due to staff turnover. This was recently compounded with the shortening of the data extrapolation window that is used.

However, actual investigations, whether immediate or 10-day responses, have actually consistently occurred within the required timeframes. When timely response indicators for the same timeframe are reviewed in SafeMeasures®, 95% of referrals that required a 10-day response were completed in time. Though this measure continues to be impacted by data entry lags, the magnitude of missing or late data issues has significantly decreased over the past five years.

http://cssr.berkeley.edu/ucb_childwelfare/Ccfsr.aspx

Outcome Measure 2C: Timely Social Worker Visits

These reports measure the compliance rate for social worker visits with children. The rate is equal to the percentage of children requiring a caseworker contact who received the contact in a timely manner. The monthly reporting period is based on a client (not case) level.

County's Current Performance:

In July 2011 (month 1), all required social worker visits were completed. In August, 97.4% of month 2 visits were completed. During September (month 3), 33 out of 39 (84.6%) of required visits were completed.

Measure	Most recent start date	Most recent end date	Most recent numerator	Most recent denominator	Most recent performance	Direction	Percent change
Month 1	7/1/11	7/31/11	40	40	100.0	N.A.	N.A.
Month 2	8/1/11	8/31/11	38	39	97.4	N.A.	N.A.
Month 3	9/1/11	9/30/11	33	39	84.6	No	-1.5%

As with Measure 2B, this measure can be impacted by untimely data entry. When viewed in SafeMeasures®, the county's performance in each month listed above was 100%. The county recently received newer, faster technology that should assist with some of the data entry delays.

While not included in the CWS/CMS outcome measures report, anecdotally, Inyo County Probation does complete 100% of required Probation Officer visits to youth in placement within required timeframes.

http://cssr.berkeley.edu/ucb_childwelfare/Ccfsr.aspx

Permanency Composite 1- Reunification

Measure C1.1 Outcome: Reunification Within 12 Months (Exit Cohort)

This measure answers the question: Of all children discharged from foster care to reunification during the year that had been in foster care for 8 days or longer, what percent were reunified in less than 12 months from the date of the latest removal from home?

County's Current Performance:

From October 2010 through September 2011, 25% of children were reunified within 12 months.

Most recent start date	Most recent end date	Most recent numerator	Most recent denominator	Most recent performance	Most recent performance relative to National Standard	Direction	Percent change
10/01/10	09/30/11	2	8	25.0	33.2	No	-56.8%

From the baseline year of 2002-03, the percentage of children who were reunified within 12 months has decreased from 57.9% to 25%. The national standard or goal is 75.2%. Since referrals are continuously assessed for progress and setbacks, this can often alter any timelines. Timelines may be extended due to various delays that may occur in the case plan; however, if reunification efforts are not feasible within 12 months, the county will attempt to finalize reunification through a six-month extension.

http://cssr.berkeley.edu/ucb_childwelfare/Ccfsr.aspx

Measure C1.2 Outcome: Median Time To Reunification (Exit Cohort)

This measure answers the question: Of all children discharged from foster care to reunification during the year who had been in foster care for 8 days or longer, what was the median length of stay (in months) from the date of latest removal from home until the date of discharge to reunification?

County's Current Performance:

From October 2010 through September 2011, the median time to reunification was 13.1 months.

Most recent start date	Most recent end date	Most recent numerator	Most recent denominator	Most recent performance	Most recent performance relative to National Standard	Direction	Percent change
10/01/10	09/30/11	N.A.	8	13.1	41.2	No	32.3%

From the baseline year of 2002-03, the median time to reunification has increased from 9.9 months to 13.1 months. The national standard or goal is 5.4 months. Timelines are extended due to continuing hearings so all parties (i.e. the attorneys for the parents) may be fully prepared for any court cases. The county also chooses to exercise its legal right to extend a case to 18 months for any child over the age of three, as the ultimate goal for child welfare is to ensure children are safe in their home and biological family unit.

http://cssr.berkeley.edu/ucb_childwelfare/Ccfsr.aspx

Outcome Measure C1.3: Reunification Within 12 Months (Entry Cohort)

This measure answers the question: Of all children entering foster care for the first time in the 6-month period who remained in foster care for 8 days or longer, what percent were discharged from foster care to reunification in less than 12 months from the date of latest removal from home?

County's Current Performance:

From April 2011 through September 2011, one out of two children who had entered foster care reunified with his or her parents within 12 months.

Most recent start date	Most recent end date	Most recent numerator	Most recent denominator	Most recent performance	Most recent performance relative to National Standard	Direction	Percent change
04/01/10	09/30/10	1	2	50.0	103.3	No	-50.0%

From the baseline year of 2002-03, the percentage of children who entered foster care within the period measured and were reunified less than 12 months later has decreased from 100% (n=4) to 50% (n=2). The national standard or goal for this measure is 48.4%. Data for this outcome measure tend to lack validity and/or reliability due to small sample size.

http://cssr.berkeley.edu/ucb_childwelfare/Ccfsr.aspx

Outcome 3: Children have permanency and stability in their living situation without increasing reentry to foster care

Outcome Measure C1.4: Reentry Following Reunification (Exit Cohort)

This measure answers the question: Of all children discharged from foster care to reunification during the year, what percent reentered foster care in less than 12 months from the date of the earliest discharge to reunification during the year?

County's Current Performance:

From October 2009 through September 2010, one out of four children reentered foster care within 12 months of reunification.

Most recent start date	Most recent end date	Most recent numerator	Most recent denominator	Most recent performance	Most recent performance relative to National Standard	Direction	Percent change
10/01/09	09/30/10	1	4	25.0	39.6	N.A.	N.A.

From the baseline year of 2002-03, the percentage of children who have reentered foster care within 12 months of reunification has increased from 0% (n=2) to 25% (n=4). The national standard or goal is 9.9%. Data for this outcome measure tend to lack validity and reliability due to small sample size.

http://cssr.berkeley.edu/ucb_childwelfare/Ccfsr.aspx

Permanency Composite 2- Adoption

Outcome Measure C2.1: Adoption Within 24 Months (Exit Cohort)

This measure answers the question: Of all children discharged from foster care to a finalized adoption during the year, what percent were discharged in less than 24 months from the date of the latest removal from home?

County's Current Performance:

From October 2010 through September 2011, there were no children discharged from foster care to a finalized adoption.

Most recent start date	Most recent end date	Most recent numerator	Most recent denominator	Most recent performance	Most recent performance relative to National Standard	Direction	Percent change
10/01/10	09/30/11	0	0	0.0	N.A.	N.A.	N.A.

No finalized adoptions occurred within the measured timeframe. Due to the county's small child population, some areas where data is looked at do not arise; thus, there lacks the ability to report any progress or setbacks.

http://cssr.berkeley.edu/ucb_childwelfare/Ccfsr.aspx

Outcome Measure C2.2: Median Time To Adoption (Exit Cohort)
This measure answers the question: Of all children discharged from foster care to a finalized adoption during the year, what was the median length of stay (in months) from the date of latest removal from home until the date of discharge to adoption?

County's Current Performance:
From October 2010 through September 2011, there were no children discharged from foster care to a finalized adoption.

Most recent start date	Most recent end date	Most recent numerator	Most recent denominator	Most recent performance	Most recent performance relative to National Standard	Direction	Percent change
10/01/10	09/30/11	N.A.	0	0.0	N.A.	N.A.	N.A.

No finalized adoptions occurred within the measured timeframe. Due to the county's small child population, some areas where data is looked at do not arise; thus, there lacks the ability to report any progress or setbacks.

http://cssr.berkeley.edu/ucb_childwelfare/Ccfsr.aspx

Outcome Measure C2.3: Adoption Within 12 Months (17 Months in Care)
This measure answers the question: Of all children in foster care for 17 continuous months or longer on the first day of the year, what percent were discharged to a finalized adoption by the last day of the year?

County's Current Performance:
From October 2010 through September 2011, there were no children discharged from foster care to a finalized adoption.

Most recent start date	Most recent end date	Most recent numerator	Most recent denominator	Most recent performance	Most recent performance relative to National Standard	Direction	Percent change
10/01/10	09/30/11	0	4	0.0	N.A.	N.A.	N.A.

No finalized adoptions occurred within the measured timeframe. Due to the county's small child population, some areas where data is looked at do not arise; thus, there lacks the ability to report any progress or setbacks.

http://cssr.berkeley.edu/ucb_childwelfare/Ccfsr.aspx

Outcome Measure C2.4: Legally Free Within 6 Months (17 Months In Care)

This measure answers the question: Of all children in foster care for 17 continuous months or longer and not legally free for adoption on the first day of the period, what percent became legally free within the next 6 months?

County's Current Performance:

From October 2010 through March 2011, no children who had been in foster care for at least 17 months became legally free for adoption.

Most recent start date	Most recent end date	Most recent numerator	Most recent denominator	Most recent performance	Most recent performance relative to National Standard	Direction	Percent change
10/01/10	03/31/11	0	4	0.0	N.A.	N.A.	N.A.

No finalized adoptions occurred within the measured timeframe. Children are not legally free for adoption unless an appropriate adoptive parent has been assessed and approved. Due to the county's small child population, some areas where data is looked at do not arise; thus, there lacks the ability to report any progress or setbacks.

http://cssr.berkeley.edu/ucb_childwelfare/Ccfsr.aspx

Outcome Measure C2.5: Adoption Within 12 Months (Legally Free)

This measure answers the question: Of all children in foster care who became legally free for adoption during the year, what percent were then discharged to a finalized adoption in less than 12 months?

County's Current Performance:

From October 2009 through September 2010, no children were discharged from foster care to a finalized adoption.

Most recent start date	Most recent end date	Most recent numerator	Most recent denominator	Most recent performance	Most recent performance relative to National Standard	Direction	Percent change
10/01/09	09/30/10	0	0	0.0	N.A.	N.A.	N.A.

No finalized adoptions occurred within the measured timeframe. Due to the county's small child population, some areas where data is looked at do not arise; thus, there lacks the ability to report any progress or setbacks.

http://cssr.berkeley.edu/ucb_childwelfare/Ccfsr.aspx

Permanency Composite 3- Exits to Permanency

Outcome Measure C3.1: Exits To Permanency (24 Months In Care)

This measure answers the question: Of all children in foster care for 24 months or longer on the first day of the year, what percent were discharged to a permanent home by the end of the year and prior to turning 18?

County's Current Performance:

From October 2010 through September 2011, no children in foster care for 24 months or longer on the first day of the year were discharged to a permanent home by the end of the year and prior to turning 18.

Most recent start date	Most recent end date	Most recent numerator	Most recent denominator	Most recent performance	Most recent performance relative to National Standard	Direction	Percent change
10/01/10	09/30/11	0	3	0.0	N.A.	No	-100.0%

Though the three children identified in this measure were assessed, none were deemed appropriate for adoption due to behavioral issues and/or the lack of potential adoptive parents. Child Welfare made efforts to stabilize each case in consistent care with the goal of identifying at least one caring adult that the child could connect with in his or her transition to adulthood. Circumstances such as these may greatly benefit from the Family Finders program or TDMs early on in case planning to increase the likelihood of transitioning with a stable support system.

http://cssr.berkeley.edu/ucb_childwelfare/Ccfsr.aspx

Outcome Measure C3.2: Exits To Permanency (Legally Free At Exit)

This measure answers the question: Of all children discharged from foster care during the year that were legally free for adoption, what percent were discharged to a permanent home prior to turning 18?

County's Current Performance:

From October 2010 through September 2011, there were no children who fell into this measurement category.

Most recent start date	Most recent end date	Most recent numerator	Most recent denominator	Most recent performance	Most recent performance relative to National Standard	Direction	Percent change
10/01/10	09/30/11	0	0	0.0	N.A.	N.A.	N.A.

Due to the county's small child population, some areas where data is looked at do not arise; thus, there lacks the ability to report any progress or setbacks.

http://cssr.berkeley.edu/ucb_childwelfare/Ccfsr.aspx

Outcome Measure C3.3: In Care 3 Years Or Longer (Emancipated/Age 18)

This measure answers the question: Of all children in foster care during the year who were either discharged to emancipation or turned 18 while still in care, what percent had been in foster care for 3 years or longer?

County's Current Performance:

From October 2010 through September 2011, there was one child who was measured within this category. This child had been in foster care three years or longer before being discharged or emancipated.

Most recent start date	Most recent end date	Most recent numerator	Most recent denominator	Most recent performance	Most recent performance relative to National Standard	Direction	Percent change
10/01/10	09/30/11	1	1	100.0	37.5	No	50.0%

From the baseline year of 2002-03, the percentage of children who had been in foster care for three or more years prior to being discharged or emancipated increased from 66.7% to 100% with the national standard or goal being only 37.5%. While the percentage increased, the number of children who exited care under these circumstances decreased from n=2 in 2003 to n=1 in 2011.

http://cssr.berkeley.edu/ucb_childwelfare/Ccfsr.aspx

Permanency Composite 4- Placement Stability

Outcome Measure C4.1: Placement Stability (8 Days To 12 Months In Care)

This measure answers the question: Of all children served in foster care during the year that were in foster care for at least 8 days but less than 12 months what percent had two or fewer placement settings?

County's Current Performance: **Child Welfare**

From October 2010 through September 2011, 76.9% of children in foster care for at least eight days but fewer than 12 months had two or fewer placements.

Most recent start date	Most recent end date	Most recent numerator	Most recent denominator	Most recent performance	Most recent performance relative to National Standard	Direction	Percent change
10/01/10	09/30/11	10	13	76.9	89.4	Yes	62.4%

From the baseline year of 2002-03, The percentage of children in care from eight days to 12 months who experienced placement stability increased from 47.4% to 76.9%. Current performance is below the national standard or goal of 86%.

Since the legal requirement is to attempt to place children with a family member, this may alter the placement stability. It is not uncommon for a child to be placed in an emergency placement, transition to foster care, and ultimately end up in his or her family's care in some capacity. Though there may be multiple placement changes, the overall goal of relative placement, which is more emotionally stable for the child, is achieved.

County's Current Performance: **Probation**
From October 2010 through September 2011, 100% of children in foster care for at least eight days but fewer than 12 months had two or fewer placements.

Most recent start date	Most recent end date	Most recent numerator	Most recent denominator	Most recent performance	Most recent performance relative to National Standard	Direction	Percent change
10/01/10	09/30/11	3	3	100	116.3	Yes	0%

Placement stability statistics for Probation will typically indicate high stability due to procedural factors around placement failure. Placement failure usually results in a violation of probation, the child is returned to the Inyo County Juvenile Center, and the offence is adjudicated. This results in the termination of the placement episode. If the child is later ordered back to placement, it would be considered a new placement, not a placement change. Therefore, though the placement was originally disrupted, there is not a direct placement change that would allow for measuring stability accurately.

http://cssr.berkeley.edu/ucb_childwelfare/Ccfsr.aspx

Outcome Measure C4.2: Placement Stability (12 to 24 Months In Care)
This measure answers the question: Of all children served in foster care during the year that were in foster care for at least 12 months but less than 24 months what percent had two or fewer placement settings?

County's Current Performance:
From October 2010 through September 2011, 60% of children in foster care for at least 12 months but fewer than 24 months had two or fewer placements.

Most recent start date	Most recent end date	Most recent numerator	Most recent denominator	Most recent performance	Most recent performance relative to National Standard	Direction	Percent change
10/01/10	09/30/11	6	10	60.0	91.7	No	-16.0%

From the baseline year of 2002-03, The percentage of children in care from 12 to 24 months who experienced placement stability decreased from 71.4% to 60%. Current performance is below the national standard or goal of 65.4%.

Upon examination of the caseload, CW staff found that the four children who did not experience placement stability had transferred to Inyo County after experiencing a period in placement instability in another county. This sibling group has been in a single, stable placement in a relative caregiver in this county; recalculating this brings the placement stability measure to 100% if only Inyo County placements are considered.

http://cssr.berkeley.edu/ucb_childwelfare/Ccfsr.aspx

Outcome Measure C4.3: Placement Stability (24 Months In Care)
This measure answers the question: Of all children served in foster care during the year that were in foster care for at least 24 months what percent had two or fewer placement settings?

County's Current Performance:
From October 2010 through September 2011, 25% of children in foster care for at least 24 months had two or fewer placements.

Most recent start date	Most recent end date	Most recent numerator	Most recent denominator	Most recent performance	Most recent performance relative to National Standard	Direction	Percent change
10/01/10	09/30/11	1	4	25.0	59.8	Yes	125.0%

From the baseline year of 2002-03, The percentage of children in care more than 24 months who experienced placement stability increased from 11.1% to 25%.

Current performance is below the national standard or goal of 41.8%. However, one of the three children who have experienced placement instability has been placed in a single guardianship placement since arriving in Inyo County about eight years ago. Therefore, if only Inyo County placements are considered, performance is actually 50%, which is above the national standard or goal.

http://cssr.berkeley.edu/ucb_childwelfare/Ccfsr.aspx

Outcome 4: The family relationships and connections of children served by the CWS will be preserved, as appropriate.

Outcome Measure 4A: Siblings
This measure answers the question: Of the children in foster care who have one or more siblings also in the foster care system, how many are placed with some or all of their siblings.

County's Current Performance:
As of October 1, 2011, there were two sibling groups (7 total children with siblings in foster care) in out-of-home placements.

Measure	Most recent start date	Most recent end date	Most recent numerator	Most recent denominator	Most recent performance	Direction	Percent change
Siblings(All)	10/01/11	10/01/11	2	7	28.6	No	-71.4%
Siblings (Some or All)	10/01/11	10/01/11	7	7	100.0	Yes	0.0%

Two siblings were placed together. A group of five siblings were placed in separate relative caregiver homes; the two older siblings with their maternal grandmother, and the three younger siblings with their paternal grandmother. All five siblings live near each other and have frequent contact with each other.

http://cssr.berkeley.edu/ucb_childwelfare/Ccfsr.aspx

Outcome Measure 4B: Least Restrictive Placements (Entries, First Placement)

This measure answers the question: Where was a child first placed upon entering foster care?

County's Current Performance:

Placement Type (Entries)	Most recent start date	Most recent end date	Most recent numerator	Most recent denominator	Most recent performance	Direction	Percent change
Relative	10/01/10	09/30/11	9	11	81.8	Yes	112.7%
Foster Home	10/01/10	09/30/11	2	11	18.2	N.A.	-66.2%
FFA	10/01/10	09/30/11	0	11	0.0	N.A.	N.A.
Group Home/Shelter	10/01/10	09/30/11	0	11	0.0	Yes	-100.0%
Other	10/01/10	09/30/11	0	11	0.0	N.A.	N.A.

Inyo County is pleased with the progress made in family finding efforts that result in relative placements, the least restrictive out-of-home placement available. Not only are there fewer group home placements made, least restrictive placements are identified earlier, resulting in improved point-in-time performance, as is evident in Measure 4B, below.

http://cssr.berkeley.edu/ucb_childwelfare/Ccfsr.aspx

Outcome Measure 4B: Least Restrictive Placements (Point in Time)

This measure answers the question: At a particular point in time, were children in the foster care system in the least restrictive placement?

County's Current Performance:

As of October 1, 2011 there were 15 children in out-of-home placement. Eighty percent were placed with relatives, the least restrictive placement option. Thirteen percent were placed in foster homes, the second least restrictive placement option. No children were placed in Foster Family Agencies or Group Homes.

Placement Type (PIT)	Most recent start date	Most recent end date	Most recent numerator	Most recent denominator	Most recent performance	Direction	Percent change
Relative	10/01/11	10/01/11	12	15	80.0	Yes	380.0%
Foster Home	10/01/11	10/01/11	2	15	13.3	N.A.	-52.0%
FFA	10/01/11	10/01/11	0	15	0.0	N.A.	-100.0%
Group/Shelter	10/01/11	10/01/11	0	15	0.0	Yes	-100.0%
Other	10/01/11	10/01/11	1	15	6.7	N.A.	-70.0%

http://cssr.berkeley.edu/ucb_childwelfare/Ccfsr.aspx

Outcome Measure 4E: ICWA Placements *(Includes Probation Placements)*

These reports examine the placement status of Indian Child Welfare Act eligible children [4E(1)] and children with primary or mixed (multi) ethnicity of American Indian [4E(2)]. Placement status takes placement type, child relationship to substitute care provider, and substitute care provider ethnicity into account. The resulting placement status categories are placements with relatives; with non-relative, Indian substitute care providers; with non-relative, non-Indian substitute care providers; with non-relative substitute care providers with ethnicity missing in CWS/CMS; in group homes (ethnicity cannot be determined); and in other placements.

County's Current Performance:

As of October 1, 2011, there were 16 children in foster care with primary or mixed American Indian ethnicity. Half of those children (n=8) were ICWA eligible. Seven of the ICWA-eligible children were placed with relatives and one was placed with a non-relative, non-Indian substitute care provider. Of the non-ICWA-eligible children in foster care placement, one was in a group home placement, two were on runaway status, and five fell into the "other" category. "Other" includes Out of State Agencies, State Adoptions District Offices, and Indian Child Welfare.

4E(1) - Placement status for children with ICWA eligibility
Agency Type=All Types, October 1, 2011, Inyo

Placement Status			Total
	Kin	Guardian - Other	
	n	n	n
Relatives	7	.	7
Non Relatives, Indian SCPs	.	1	1
Non Relatives, Non Indian SCPs	.	.	.
Non Relatives, SCP Ethnic Missing	.	.	.
Group Homes	.	.	.
Other	.	.	.
Total	**7**	**1**	**8**

Center for Social Services Research University of California at Berkeley, *Data Source: CWS/CMS 2011 Quarter 3 Extract., Program version: 2.00 Database version: 61A392E7*

http://cssr.berkeley.edu/ucb_childwelfare/CDSS_4E.aspx

4E(2) - Placement status for children with primary or mixed (multi) ethnicity of American Indian
Agency Type=All Types, October 1, 2011, Inyo

Placement Status	Kin	Group	Guardian - Other	Runaway	Other (?)	Total
	n	n	n	n	n	n
Relatives	7	.	.	.	.	7
Non Relatives, Indian SCPs	.	.	1	.	.	1
Non Relatives, Non Indian SCPs	.	.	.	.	.	.
Non Relatives, SCP Ethnic Missing	.	.	.	.	.	.
Group Homes	.	1	.	.	.	1
Other	.	.	.	2	5	7
Total	7	1	1	2	5	16

University of California at Berkeley, *Data Source: CWS/CMS 2011 Quarter 3 Extract. Program version: 2.00 Database version: 61A392E7*
http://cssr.berkeley.edu/ucb_childwelfare/CDSS_4E.aspx

Toiyabe Family Services staff attend monthly MDT meetings at the Inyo County Juvenile Center (ICJC). Both Child Welfare and Probation is interested in continuing to expand their relationship with ICWA and tribal services, including Toiyabe Family Services, especially through Inyo County Placement At Risk Review Team (ICPARRT) meetings.

Outcome 5: Children receive services adequate to their physical, emotional and mental health needs.

Outcome Measure 5B: Timely Medical and Dental Exams
This measure answers the question: What percentage of children in foster care are meeting the schedule for Child Health and Disability Prevention (CHDP) and Division 31 medical and dental exams?

County's Current Performance:
From July 2011 through September 2011, 100% of children in foster care received timely health exams. However, only 20% of the children received timely dental exams during the same timeframe.

Exam Type	Most recent start date	Most recent end date	Most recent numerator	Most recent denominator	Most recent performance	Direction	Percent change
Health	07/01/11	09/30/11	14	14	100.0	Yes	28.6%
Dental	07/01/11	09/30/11	2	10	20.0	No	-55.0%

Though performance is accurately captured for the health exam measure, data entry lags have impacted performance in the timely dental exams. Upon review of the cases, child welfare staff determined that, in fact, both health and dental exams were completed in a timely manner 100% of the time.

http://cssr.berkeley.edu/ucb_childwelfare/Ccfsr.aspx

Outcome Measure 5B: Authorized for Psychotropic Medication

This measure answers the question: How many children in foster care are authorized for psychotropic medicine?

County's Current Performance:

From July 2011 through September 2011, one out of seventeen children in foster care had a current court order for psychotropic medication. The order was issued within the required timeframe.

Most recent start date	Most recent end date	Most recent numerator	Most recent denominator	Most recent performance	Most recent performance relative to National Standard	Direction	Percent change
07/01/11	09/30/11	1	17	5.9	N.A.	N.A.	-77.5%

http://cssr.berkeley.edu/ucb_childwelfare/Ccfsr.aspx

Outcome 6: Children receive services appropriate to their educational needs.

Outcome Measure 6B: Individualized Education Plan

This measure answers the question: How many children in foster care have an Individualized Education Plan (IEP)?

County's Current Performance:

From July 2011 through September 2011, none of the children in foster care had an IEP.

Most recent start date	Most recent end date	Most recent numerator	Most recent denominator	Most recent performance	Most recent performance relative to National Standard	Direction	Percent change
07/01/11	09/30/11	0	17	0.0	N.A.	N.A.	-100.0%

Though not all children included in the measure above have IEPs, at least two do. Therefore, this measure appears to be inaccurate due to data entry lags.

http://cssr.berkeley.edu/ucb_childwelfare/Ccfsr.aspx

Outcome7: Families have enhanced capacity to provide for their children's needs.

No measurable outcomes identified for Inyo County.

Outcome 8: Youth emancipating from foster care are prepared to transition to adulthood

Outcome Measure 8A: Exit Outcomes for Youth Aging Out of Foster Care

This measure answers the question: Are there indications that children in foster care successfully transitioning into adulthood?

County's Current Performance:

From July 2011 through September 2011, there were no children who aged out of foster care.

Exit Outcome	Most recent start date	Most recent end date	Most recent numerator	Most recent denominator	Most recent performance	Percent change
Completed High School or Equivalency*	07/01/11	09/30/11	0	0	0.0	N.A.
Obtained Employment*	07/01/11	09/30/11	0	0	0.0	N.A.
Have Housing Arrangements*	07/01/11	09/30/11	0	0	0.0	N.A.
Received ILP Services*	07/01/11	09/30/11	0	0	0.0	N.A.
Permanency Connection with an Adult*	07/01/11	09/30/11	0	0	0.0	N.A.

While no children aged out of foster care during the timeframe measured, Inyo County does offer Independent Living Program (ILP) services to eligible young adults up to age 21. Also, youth who age out of foster care can apply to THP-Plus. This transitional housing program offers a higher-level of support for emancipated youth.

http://cssr.berkeley.edu/ucb_childwelfare/Ccfsr.aspx

Systemic Factors

Relevant Management Information Systems

Both Social Worker and support specialist staff in Child Welfare Services enter case notes into the CWS/CMS system. Though considerable progress has been made since the introduction of CWS/CMS, the relatively inexperienced staff continues to struggle with full understanding of the reports and other resources available through the system. The Social Worker Supervisor uses statistics from SafeMeasures® to monitor and address data entry lags. The Social Workers are also supported by three support specialists who assist with data entry.

Probation is expected to complete training and implement the CWS/CMS system in fiscal year 2012-13. At this time, most case notes are captured electronically in a data base (JALAN) that is used by law enforcement, the county jail, the county juvenile center, District Attorney's office, and the courts. As part of their Best Practices Approach Initiative grant, Probation is contracting with a company to develop a Datamart that will pull and aggregate data from multiple systems for use in tracking probationers and identifying trends and opportunities in the provision of services.

As a small county with low caseload numbers, the use of technology can be a barrier to efficiency. There is limited Information Services staff available to support and maintain advanced technological equipment. Sophisticated statistical software such as SAS or SPSS is not only too expensive for such a small department to purchase; it is also quite advanced and would require extensive staff training in order for it to be useful. Although some equipment is rather costly, the department was recently able to procure ten new, faster workstations. These stations should enhance and support the specialists, Social Workers, and Social Worker Supervisor in some capacity due to the workstations being more equipped for multi-tasking.

Statistical information in Business Objects, as well as information accessed through SafeMeasures®, a subscription reporting service which permits customers to monitor service delivery activity by navigating an extensive set of reports presented in graph and chart format from Inyo County Child Welfare System (CWS/CMS) data, is used to inform program budget narratives and State and County requests for information.

Inyo County Health and Human Services is the designated party responsible for the administration and oversight of the PSSF, CAPIT, and CBCAP funds. Designated by the Board of Supervisors, the county must have some sort of systematic monitoring service able to ensure the needs of the population are adequately being met. Both CBCAP and PSSF funds are monitored through the use of consumer satisfaction surveys. CBCAP moneys are also monitored by the Fiscal Department through the use of Microsoft Excel. CBCAP funds are not monitored through an evidence-based model; however, there is still much oversight as to how these funds are disbursed. The community is able to provide feedback through the quarterly meetings the county uses as an assessment tool. Because PSSF funds are a small dollar amount, the county is able to manually monitor family outcomes and see if funds were able to aid a family in one of the family's established goals.

Case Review System

Court Structure/Relationship.
CWS, Probation, Court staff, and Attorneys involved in dependency and probation cases characterize their relationship as positive, productive and collaborative. Departments view themselves as collectively responsible for children in the Child Welfare or Probation system so services are provided with the best interest of the child in mind as information flows freely and adequately.

Continuances are minimal and granted only for hardship reasons, despite busy court calendars. The Court, Attorneys, Child Welfare, and Probation staff recognize the level of logistical coordination required for involved parties to attend a proceeding and maintain a commitment to remaining on track with cases. The Court emphasizes the importance of filing court reports in a timely manner to keep continuances to a minimum. Additional court carrying staff members have been added to ensure that Child Welfare court reports are filed on time.

The Court challenges Child Welfare staff to aggressively provide services in the home in an effort to maintain a child with his/her family of origin and keep a child from entering the court system. A child entering the system may experience the limited availability of placement resources within the community; this can pose barriers to providing services that are in the best interest of the child. Child Welfare staff recognizes the community limitations and work diligently to meet the Court's expectation as evidenced by the available data: of the 42 cases currently being served by Child Welfare staff, 24 are in Voluntary Family Maintenance, non-relative guardianships receiving support services, or are inter-county placements receiving courtesy supervision. Three cases are in Court-Ordered Family Maintenance. The remaining 15 cases are out-of-home placements that are either in family reunification or permanency planning.

The child(ren) and families are able to meet at the Health & Human Services building for supervised visitation. The office contains a large room with toys and board games for various age groups, and has a table and chairs and a whiteboard in the event case planning should occur during these meetings. Within walking distance, there is a fast food playground, community park, and swimming pool, which are all accessed when the family chooses to venture into the community.

Although the use of TPR, terminating parental rights, is exercised in other counties in the state, it is not a practice Inyo County chooses as a primary option in its Child Welfare cases. Since many of our children are often placed with family members, the county chooses to exercise guardianship, rather than discontinuing a parent's rights, as the child often still has a connection to their mother and/or father. This is especially the case when working with Native American families and being culturally sensitive; the TPR process is inconsistent with Inyo County's tribal culture. The county does not consistently engage in alternative dispute resolution, although at select times this is used as a mediation resource.

Scarce and diminishing resources present the need to continually evaluate whether or not existing services are maximized and prioritized to meet the greatest need. The Court, Probation, and Child Welfare staff recognize the need for mental health support to dependency and/or

probation cases. Support may be offered through individual talk or play therapy, gender specific social skills group, individual rehabilitation services and case management, or therapeutic behavioral services. Therapeutic Behavioral Services are a mandated, intensive, yet short-term service for children coming out of placement or at risk of being placed. These entities meet regularly to determine appropriate assessment and screening tools and options for follow up services.

Process for timely notification of hearings.
The Court emphasizes the importance of timely and expedient interventions, as deemed necessary, notification of proceedings to parents and tribal authorities and extended family members, as appropriate and family participation. Child Welfare and Probation staff report timely notifications and describe efforts to ensure appropriate parties receive the information. Social Workers have a specific court case update form they take to each proceeding, which allows for a more timely data entry response on all court-ordered family maintenance and family reunification cases. The support specialists utilize these documents as well as a specific calendar to document when notices need to go out for the various court proceedings. These notices are entered into the calendar and sent out to the appropriate parties before the minimum amount of days the court requires. Notifications are conducted in writing and through a personal contact as needed. Notifications may be coordinated with help from the court or local law enforcement staff.

Process for parent-child-youth participation in case planning.
The Inyo County Child Welfare and Probation staffs use the Division 31 Regulations as the manual of instruction for the provision of services as formalized policies and procedures in the area of implementing case planning activities have not been developed. Inyo County's Court has a high level of expectation in regards to the provision of services to families and monitors the progress of families on a more frequent basis than required. This includes regular reviews of a family's case plan and their progress and compliance.

In Child Welfare, input from the family is obtained during the investigation and case planning process. The Structured Decision Making® (SDM) tool of family strengths and needs assessment is used to develop case plans. The Social Workers also use the "Signs of Safety" tools to engage families in identifying safety issues and developing individualized case plans to ensure the health and well-being of children in the home. Regular and consistent supervision of cases helps to incorporate family strengths and self-identified goals and objectives during later phases of the case planning process. Currently, the county does not partake in TDM, or Team Decision Making. MDT, or Multi-Disciplinary Team meetings, may occur if there are areas early intervention can occur. Although these meetings occur once a month, attendance is sporadic due to community members often wearing multiple hats, and thus, being involved in many committees where scheduling conflicts may occur. Families are informed verbally during the case planning process of their rights and responsibilities in the case planning process. Case plans are reviewed with the parents at least quarterly, and typically more frequently as goals and objectives are continually assessed between the social worker and the family.

One of Inyo County's strengths continues to be obtaining input from youths in foster care during the development of the Independent Living Services Plan. Eligible youth are generally in a non-

adversarial mindset when services are offered and are more receptive to genuinely participating in developing an individualized plan. The ILP Social Worker focuses on helping youth break down objectives into short-term, easily identifiable steps over a six-month period to help transitioning youth meet their long-term goals.

Success in the areas of visitation and identification of specific service needs can be impacted by the significant size and rural nature of our county, as well as the limited resources that are available. However, family-identified visitation plans and the provision of family-specific services are accommodated to the extent possible when developing the case plan. It is not uncommon for a child involved via family reunification to have visits upwards of three times per week.

Child Welfare staff regularly incorporate services to caregivers in case plans of families who have children placed in out-of-home care. Caregiver-specific services are not always written into the plan (e.g. specific types of counseling or support activities); however, these services are provided to the caregivers as identified and requested.

CWS consumer input strongly emphasized the importance of including parents in the process from the very beginning of a case through honest and regular communication about the case status, legal rights, and providing as many feasible choices within the legal parameters.

In Probation, officers have been using the Positive Achievement Change Tool (PACT) for three years. This assessment allows POs to determine whether a juvenile is at high risk of reoffending, based on static and dynamic risk factors. The tool also helps officers identify areas of criminogenic need, which helps inform individualized case plans. Results of the PACT are used to increase operational efficiency (low-risk offenders are monitored less than high-risk offenders), and allows the department to structure check-ins and probationer activities so that low-risk offenders are not exposed to higher-risk populations.

General Case Planning and Review.
Case planning is conducted with families within the first 30 days of a case, whether the child is placed outside of the home or remains in the home. For Child Welfare staff, the case plan is initially written manually, on a template, in order to ensure compliance with the Division 31 Regulations. The SDM® tool is used to identify family strengths and needs, and then an automated case plan is generated through CWS/CMS and submitted to the Court at the time of disposition. Child Welfare case plan progress and, if any, setbacks, are reviewed with the families on a minimum of a quarterly basis, and typically, more frequently, as cases are discussed during the weekly staffing meeting. The Social Worker Supervisor and Social Worker also meet during designated supervision time as well as when anything pressing or urgent may need to be discussed. The court calendars provide monitoring and oversight in that review hearings are held every two to four months for cases involving children who remain in the home and those in which children are placed in out-of-home and are receiving family reunification services. The case plans are reviewed at these hearings for appropriateness, as well as level of progress and participation.

For Probation, the case plan is manually written and submitted to the court at the time of disposition. With the exception of placed youth, a six-month review is conducted as deemed necessary.

Case planning with families of non-Caucasian ethnicity is conducted within the context of a family's culture, to the extent possible. The two primary non-Caucasian ethnic groups in Inyo County are Native American and Hispanic/Latino. Social Workers utilize staff that are Spanish-speaking from other county departments, or access the language line, an online service that can assist Social Workers in interpreting over 170 languages, to assist with translation during case planning, in the development of the written case plan document and in the provision of case planning services. There are limited resources in the community that specifically address the needs of families who are Spanish-speaking and Child Welfare staff help families engage in the services that are available. The needs of those in the Hispanic/Latino community are similar to those of people of different cultures; housing assistance, employment opportunities, affordable childcare, and access to medical services are all crucial to the community. However, with minimal Spanish-speaking providers, getting these needs met can be a challenge. Another challenge to this community is when these families fall in the service gap due to some individuals lacking the proper documentation to access services as well as the financial resources to receiving alternative services.

The Native American community has a well-established social services system, which includes Mental Health services, alcohol and drug services, health clinic services, a community health representative, or CHR, home visiting program, housing, Tribal TANF, or Temporary Assistance for Needy Families, career development training, youth services, and early childhood services, including a Head Start program, Even Start, child care services and the WIC, Women, Infant, and Children, nutrition program. The Indian Child Welfare Act (ICWA) representatives from some area tribes are actively involved in case planning for Native American children involved in the Child Welfare system. Child Welfare, Probation, and ICWA Stakeholders report a positive, effective working relationship with the Native American community that insures children of Native American ancestry can access available services.

The court calendars review hearings more frequently than the required six-month period until the permanency hearing which is conducted within the required timelines. The mechanisms for ensuring the timely setting of permanency hearings include the manual tracking of the required dates by the Child Welfare staff, as well as the implementation of the recommended Title IV-E findings and orders at each hearing so that the date by which the permanency hearing must be held is identified at an early stage. The timeliness of the permanency findings are impacted at times by the continuance of the court hearing due to court reports not being filed in a timely manner. This occurs as a result of staffing issues such as inexperience, low staff numbers due to the rate of turnover, and/or increased caseloads over time.

The ideal permanency plan for our youth is the return of the child to their family of origin, which is facilitated to the extent possible through the provision of family reunification services. These services are initiated at the very beginning stages of a dependency case. Concurrent permanency planning for youth begins when the reunification plan is developed, and within the context of the family, whenever possible, as non-custodial parents, family members, and non-related extended

family members tend to offer the most positive and stable permanency options to youth. The concentrated focus on locating and assessing non-custodial parents, family members and extended family members, combined with our regular consultation and coordination with the Indian Child Welfare Act (ICWA) representative helps ensure children remain in the community, are placed in the least restrictive environment, and compliance with the provisions of ICWA is achieved.

Emergency family placements are allowed if initial clearance of criminal background and child abuse history occurs. The state requirement to approve a home only after a background check is completed may result in temporary placements if a problem is identified in the background check. Multiple placements most often occur when there are poor behaviors or delays due to problems with background check. If a permanent placement is delayed due to a background check, a temporary local foster home is identified. Social Workers provide a high level of support to foster parents and provide respite childcare when necessary to minimize instability, especially when the child has challenging behaviors. Social Workers often spend a significant amount of time providing support to the foster parents, identifying other placement options, and transporting children to the various placements. Social Worker efforts are often focused on stabilizing a child who is not only reacting to the initial removal, but also dealing with the emotional and behavioral difficulties associated with placement changes.

Children of Inyo County are at a disadvantage when family resources are not readily accessible within their own community. As the county already has a limited number of foster homes, only a few of these homes will consider accepting children on a long-term basis. This lack of resources places a child at risk for multiple placements and/or placements out-of-area, which are approximately four or five hours from his/her own community, as well as having a greater likelihood of failed family reunification efforts. Child Welfare and Probation hold weekly collaborative case staffing, as well as bi-weekly interagency placement team meetings in an effort to help mitigate these issues and to achieve the goal of maintaining a child within his/her own community and in close proximity to the family.

Many of the children for whom a permanency option is needed often arise from a variety of issues that have been considered, including age, parent bond, and/or challenging behavior. Area children have a strong connection with the geographical setting; a child placed out-of-area may feel punished when s/he is placed outside Inyo County and will do what is necessary to return, including increasing poor behaviors and/or running away. In a small community, it is often unrealistic to terminate parental rights as well as place a child with adoptive parents in the same community. Biological parents and children have much access to one another by virtue of community size, thus increasing the risk of attempts to inappropriately interfere with the new adoptive relationship and realm of authority. Within the Native American community, termination of parental rights (TPR) may increase emotional instability for the child as the parental relationship is valued and inextricably linked to the child's identity as a member of the larger tribal village. Members of the tribal community are willing to provide permanent placement options as long as parental rights can be maintained. However, as previously stated, Indian Customary Adoptions may be a viable alternative to formal adoption and may prove to be another option for permanent placements within Inyo County Native American communities.

Due to the above described community context, limited county options often necessitate the identification of Kinship Guardianships and non-relative Guardianships as the primary, concurrent permanency plan. Although this strategy results in fewer adoptions, children can achieve permanency while remaining in the community and within the family support system. The Child Welfare staff work collaboratively with Native American communities to identify appropriate, realistic, concurrent plans, and to support the implementation of these plans through case planning and supportive services.

Foster/Adoptive Parent Licensing, Recruitment and Retention

General Licensing, Recruitment and Retention.
The ICHHS Adult and Children's Social Services division is responsible for licensing foster family homes through a Memorandum of Understanding (MOU) with the California Department of Social Services. One Child Welfare staff person is assigned, on a part time basis, to order criminal record clearances and maintain standards for foster homes that receive federal Title IV-E or IV-B funds.

The Licensing Program Supervisor and Program Analysts each attend a weeklong training held by Community Care Licensing, the regulatory body for foster family home licensing. The academy discusses the Title 22 rules and regulations, foster family home case management, and information pertaining to opening and closing home, investigating complaints, and creating plans to remedy said complaints. The Licensing Program Supervisor also receives quarterly updates by receiving information that is discussed at these day-long meetings. On occasion, as policies and statutes are amended, there may be an unplanned teleconference or webinar to discuss changes going on at the state and/or federal level.

Close coordination with ICWA representatives insures culturally appropriate foster care is identified for children of Native American lineage. Within the last five years, ICWA representation has become more fragmented, as each tribe has assumed its own ICWA program, rather than contracting with the local tribal social services agency. While this has presented some problems due to the change in representatives, ICHHS continues to make significant efforts to not only ensure that ICWA notifications occur as mandated, but also that placements are made within the provisions of ICWA, a prime example of the Casey Foundation's Family to Family Initiative. ICHHS strives to find relative placements for children because children and the families will be more likely to succeed and thrive when in a community that is culturally sensitive and familiar to this child.

Caseload demographics show that the majority of children in the CWS/Probation system are between the ages of six and 15. As previously stated, the county does not have a shelter for emergency placement for children, which is why the recruitment of quality foster parents is integral to the county's functioning for child welfare cases. Not only is it costly to place a child out of his/her community, it also alienates this child and hinders the success of family stability. In general, it is more challenging to locate placements that will accept older children as these children may behave in undesirable ways which are intolerable for foster parents. The community has a high standard for behavior in its children; there are limited numbers of community members who will be foster parents and who are also equipped to tolerate and

manage challenging behaviors. The "problem child" becomes stigmatized by his/her negative reputation which in turn limits options for placement within the community.

Other barriers to recruiting adequate numbers of foster placement options include limited funding for recruitment activities ($2,328/yr.), lack of childcare for younger placements, and limited appropriate and affordable housing options for potential foster families. Many of the homes in the area have direct access to surface water, which for homes willing to accept young foster children is unallowable per licensing requirements. Although there are alternatives to remedy this situation, some of these options are costly, and deter families from continuing the process.

Despite the historic struggle to recruit and retain foster parents, Inyo County continues to look for new ways to create interest in local foster homes. Over the past two years, a local foster parent, in coordination with the Foster Care Commission and Child Welfare staff, has produced a foster parent recruitment video that he has shared extensively with local service groups and entities in an effort to recruit new foster homes. Unfortunately, these efforts met with limited success. Child Welfare staff report that they have found the most success in recruiting foster homes through one-on-one outreach with families who were referred by existing foster parents. However, foster parent stakeholders shared that although they make efforts to recruit other foster homes and are available for outreach, many potential resources they connect with are reluctant to give up their current "way of life" to become foster parents. A forum was also held with current foster parents to discuss the challenges foster families may find in the community. A continued suggestion these families have is to continue to have an arena for foster parent support and to create ways for the foster families to meet various community providers.

Quality Assurance System

Community Based Child Abuse Prevention

CBCAP funding is used primarily to focus on child abuse prevention activities in the isolated southeastern portion of Inyo County. Standard accounting and contract monitoring quality assurance protocols are used to ensure fiscal accountability of contractors. In addition, ICHHS staff collect pre and post-service consumer satisfaction surveys. Members of the ICHHS staff also meet with the community members quarterly to provide a forum for direct feedback and use the opportunity to monitor the direct services that are provided in the remote regions of the county. Parents, citizens, CBOs, LEAs, and other community members able to attend these quarterly forums may discuss any progress or setbacks that have been noticed.

Child Abuse Prevention Intervention and Treatment

Home-based services have historically been provided through a local CBO, but the contract was terminated in 2008 and a new contractor has not been identified. In previous agreements, the CBO would agree to annual and fiscal program monitoring verbiage in the agreement. The county would meet with the contracted agency every six and twelve months to problem solve and monitor any resource issues. Due to a lack of CBOs, there is a question as to should the county be administering the funds during this next SIP cycle. The county is moving cautiously due to findings in the PQCR and CSA. The county may choose to narrow its focus on what the

goals and/or objectives of the desired program, and re-issue a RFP, Request for Proposal, to attempt procuring these services.

Promoting Safe and Stable Families
PSSF funding is used to help stabilize families in order to prevent unnecessary removals of a child from their home, support reunification and/or ensure permanency for children who are in out-of-home placement. To determine is use of PSSF funds have benefited a family, staff administer both consumer satisfaction surveys and, in some cases, follow up interviews with families. Due to these funds being limited, it is feasible for the county to manually monitor if these outcomes were in fact achieved.

The Children's Trust Fund
The Children's Services Council (local CAPC) oversees the distribution of CFT funds throughout Inyo County. Standard accounting and contract monitoring quality assurance protocols are used to ensure fiscal accountability of contractors

Service Array

Services range from permanency planning to court-ordered family maintenance to early intervention to general child abuse prevention. The community expects services to be individualized at all levels for its residents to the most feasible extent.

Many families identified as at high risk for entering the child welfare system are identified through the schools, physicians and other health service providers, Social Services, community-based organizations (CBO), and other local agencies. These families are regularly referred to primary and early intervention programs.

Within the field of Child Welfare, "high risk" may be described as a history of domestic violence, substance use, alcohol use, a child's own history of referrals of suspected abuse and/or neglect, a family history of mental health, and/or a family history (either maternal or paternal) of suspected abuse and/or neglect for the parent of the child.

The term "high risk" in mental health will look different depending on the developmental stages the child may fall into. For the youngest children in the community, it could be defined as CPS involvement or being at risk of removal for child abuse/neglect; parents substance use/abuse; exposure to trauma; developmental delays in speech, language, or emotional development; child's behaviors (aggressive, anxious, or non-compliance with requests) creating challenges in parenting; or initial signs of aggressive behaviors or poor social skills. School age children may also show signs of these behaviors, but may also be at risk for school failure or be involved with special education services due to attention difficulties, behavioral issues, or challenges with emotional regulation. Teens and children in middle school include poor peer relations, including fights and/or bullying; school failure; truancy; substance use, including alcohol and cigarettes; defiance at home, including running away; suicidal behaviors; self-injurious behaviors; depression or the onset of a major mental illness; parenting or family dynamic issues; lastly, being at-risk for placement through probation due to criminal or juvenile delinquency behaviors.

Community-based and prevention-focused services

Community services ranging from parenting education, child abuse prevention/domestic violence prevention education, family resource centers, Salvation Army, and environmental prevention programs such as tobacco education, AIDS awareness and pregnancy prevention are targeted to the general public. However, many of the programs have eligibility criteria ranging from income eligibility to specific special needs eligibility. A summarized list of available resources is included on the following page.

Inyo County Services Targeted to Families At Risk for Entering the CWS system and *Those with Key Risk Factors for Child Maltreatment*	
• Inyo County Social Services: voluntary and court ordered family maintenance services, TANF, vocational job training, etc. • Inyo County Probation: presence at school sites, school-based prevention activities • Kern Regional Center/Great Steps Ahead: programs designed to meet the needs of children and families that meet Regional Center criteria • Inyo County Behavioral Health Services: serves Medi-Cal eligible population with counseling, crisis intervention with 24-hour availability for children and families, case management and parenting education. Also provided Parent Child Interactive Therapy for parents of children under 10 years old. Substance Use Disorder treatment services, Drinking Driver Programs. • Mental Health Services Act Wellness Center: Provides consumer-run classes and groups. Offers daily support to mental health consumers and their families. • Inyo County Public Health Division: *very* limited high-risk nursing outreach services with a primary focus on pregnant and parenting teens. • Foster Care Nurse: Assists in preparing health passport for all children in foster care. • Toiyabe Family Services: provides behavioral health services to Native Americans and other qualified populations. • CA Children's Services: Nurse case management to assist eligible families with children's special medical needs. • Sexual Assault Response Team (SART): Through multi-agency involvement, provides counseling and support to sexual assault victims. • Women, Infants and Children (WIC): food programs operated by Inyo County and By the Bishop Paiute Tribe. • Owens Valley Career Development Center: vocational education serving primarily Native American adults.	• First 5 Commission: addresses needs and services for children ages 0-5 and their families. Provides parenting education, playgroups, and prevention partnerships with Public Health, WIC, and other CBOs. • Inyo County Superintendent of Schools (ICSOS) Child Care Connections: childcare referrals and child care subsidies. Also vocational training programs, prevention partnership with Juvenile Probation in continuation school. • Local churches and services organizations, including community recovery and support at the Methodist Church in Bishop • Healthy Families of Southern Inyo (CBO): Offers after school and summer activities for children and families in Lone Pine and other southern Inyo County communities. • Wild Iris (CBO): domestic violence/child abuse agency providing child abuse/domestic violence prevention education, parenting education, and 24 hour crisis hotline • Salvation Army (Faith-based CBO): Services to pregnant and parenting teens and a variety of emergency services including food, shelter, and clothing. • IMACA (CBO): provides a variety of services to assist at risk families including emergency housing assistance, shelter, food, clothing, rental assistance, and job training and placement. • Head Start programs: one community-based and one serving primarily Native American children. • Alpine Counseling (private): Domestic Violence Batterers groups, victims programs, parenting • Positive Solutions (private): Provides behavioral health and recovery services, including anger management and domestic violence groups. • Inyo County Mentoring Program • FamilyPact: Woman's reproductive healthcare services.

Most of the services listed are provided countywide to some degree, although the level of intensity varies depending upon geographic location, availability of private service providers, and staff availability. There are limited private service providers in several areas of the county; most are in the two largest population centers, Bishop and Lone Pine. High transportation costs to both families and agencies limit service availability to some areas of the county.

Culturally appropriate services and services for Native American families
Native American families have the option of accessing similar services through local tribal programs such as Toiyabe Family Services, Owens Valley Career Development Center, Tribal TANF, and Toiyabe Indian Health Project. These services include housing, cash aid, WIC, childcare, parenting education, mental health services, drug and alcohol services, Head Start, Even Start, health services and community health outreach services. These services are available to Native American families throughout the county through outreach and some limited out-posting of services.

Historically, a strength of Inyo County was its regular and consistent contact with the Native American Family Services programs. Once a month, these parties would meet to review treatment needs specific to the needs of Native American residents and if these needs were being met through tribal resources. However, changes to Toiyabe services caused for this to be discontinued as they began to participate in ICPARRT. Child Welfare staff still have consistent communication with ICWA experts, as cases deem this service as appropriate. Although Toiyabe has consistent contact with Probation, the county would like to increase this communication with its Child Welfare staff.

Services targeted to children at high risk of abuse or neglect
Approximately 60-70% of reports of suspected child abuse and neglect involve families who are being reported for issues that indicate a high-risk factor but do not meet the legal standard for intervention, are referred to another jurisdiction, or are duplicative reports. These families are referred to community resources in an effort to effect early intervention. If it appears that a child is at risk of abuse, is in need of continued early intervention services, or is at risk of further abuse, the child welfare staff will offer referrals and resources to the families. These families are also offered voluntary family maintenance services by CWS in order to provide a higher level of assistance and oversight in addressing the issues that were identified during an investigation.

One services area gap identified by stakeholders was the lack of in-home services geared toward educating and supporting parents in terms of parenting solutions, setting boundaries, consistency, and positive and negative rewards. A local CBO had contracted with Inyo County to provide CBCAP-funded home visiting and case management services to at-risk families. Unfortunately, the contractor determined that funding was not sufficient to cover administrative costs of the program, and the contract was eventually terminated. Since then, the County has attempted to find a different entity to fill this services gap, but has been unsuccessful so far.

Wraparound services
The lack of in-county group home options has, at times, resulted in a relatively high number of out-of-county placements for Inyo youth. Placing a child out-of-county is undesirable for a

number of reasons. In this rural county with a relatively low crime rate, children tend to enter the child welfare and probation systems earlier that they might in other areas of the state, and may be exposed to higher-risk groups and return with worse behavior. Many children feel homesick and do not receive regular visits with family members, due to the long distances between Inyo County and many of the available group homes in California. For children who benefit from the services they receive in a group home, returning to their family home may be a difficult transition if the family has not also received supportive services.

Out-of-county placements are costly and require social workers and probation officers to travel monthly. As a result of community and stakeholder input during the County's last Self-Assessment, implementation of Wraparound Services in Inyo County became a primary goal of the System Improvement Plan for the period 2008-2011. A plan was developed by the Wraparound steering committee, and was approved by CDSS in 2009. After a lengthy recruitment process, a Wraparound team, including a child welfare social worker, a juvenile probation officer, a behavioral health social worker, and a parent partner, was hired and trained. The team began accepting new cases in September, 2010. Over the past year-and-a-half, the team has provided intensive services to nine children and their families, and all but three children have been successfully maintained in their homes without a higher level placement needed.

Permanency options for children in foster care
When children enter the child welfare system, social workers conduct concurrent planning to ensure that a child is either reunified with their parents or permanently placed with an appropriate guardian as early as soon as possible. Though reunification is most often the primary goal, alternative permanency plans must be made in order to reduce the amount of time a child is in foster care.

Though adoption is regularly considered in permanency planning, adoptions rarely occur in Inyo County. One reason for this is that a significant percentage of children in foster care in Inyo County are Native American. Many prospective adoptive parents in the Native American community choose to honor cultural traditions that value parental rights. Therefore, permanent guardianships are far more common than adoptions within this population. Child Welfare is aware of a practice known as Indian Customary Adoption, and staff have indicated that this may be a viable alternative to permanent guardianships within the Native American community.

Services in remote areas of Inyo County
The majority of services are located in the northern part of the county, which is a large geographic area and holds the majority of the population. In Lone Pine (the second largest community), four agencies have satellite offices that provide services to Lone Pine, Olancha, Cartago, Darwin, and Keeler: Inyo County Health and Human Services (ICHHS), Inyo County Probation, Salvation Army, and IMACA. ICHHS social service staff, Inyo County probation staff and IMACA child and family staff provide services in Lone Pine and the surrounding area. ICHHS, Probation, and the Salvation Army have an office or contact person in Independence; the Inyo County Juvenile Center is also located in Independence.

In Death Valley and Tecopa areas, the remote southeastern most part of the county (4 hours from the northern portion of the county) is an ICHHS satellite office. A site manager and

paraprofessional employee work full time in the Tecopa office and regularly act as liaisons between consumers and various ICHHS program employees who work in the northern part of the county. Videoconferencing is available between bishop, Lone Pine and Tecopa offices and is used as appropriate. When an in-person visit is more appropriate, child welfare and probation staff will travel to that area.

Southeastern Inyo County is also served by the Death Valley Health center that provides many prevention and early intervention activities. IMACA, a community-based organization, provides housing assistance, emergency food and clothing, children's programs and activities, community activities and other services as identified. Toiyabe Indian Health Project regularly sends a medical provider to the Death Valley area and helps clients with transportation and linkage to services. Probation serves this area from its Lone Pine office when needed, as the caseload is very small in southern and southeastern Inyo County. Officers manage remote cases by telephone and face-to-face visits as often as monthly.

Individualized service options
Stakeholders noted a variety of strengths in local social work practice that contribute to the development of individualized case plans and services, including:

- Identifying and enhancing family strengths to promote safety in the home (Strengths perspective of Social Work).
- Social workers and probation officers often follow a case in its entirety and truly know and understand the family.
- Good, effective communication despite confidentiality issues; willingness to share and coordinate services across systems.
- Overarching philosophy of keeping our kids in their home or in our county (family preference); focus on stability in child's life.

Multiple practices have been implemented to support individualized planning and service provision. A primary principle of Wraparound services places a priority on hearing the family's voice and empowering children and parents to make choices about the services they receive that will work in the context of their family.

In Child Welfare, input from the family is obtained during the investigation and case planning process. The Structured Decision Making® (SDM) tool of family strengths and needs assessment is used to develop case plans. The Social Workers also use "Signs of Safety" tools to engage families in identifying safety issues and developing individualized case plans to ensure the health and well-being of children in the home. Engaging the parents and children in case planning activities is always attempted, but may be an area of challenge for staff. While participant input is solicited, the resulting plan is not always as in depth as it could be. Skill levels vary among staff; some have more difficulties dealing with the volatile emotions which are often exhibited by family members in the early stages of case planning activities. This lack of comfort can sometimes influence the worker's ability to identify strengths family members may build upon. Goals and objectives may become more generic and generalized at times if the worker is unable to obtain concrete family input. Fortunately, regular and consistent supervision

of cases helps to incorporate family strengths and self-identified goals and objectives during later phases of the case planning process.

As explained in the case review system section, probation officers use Positive Achievement Change Tool (PACT) to help officers identify areas of criminogenic need, which helps inform individualized case plans. Results of the PACT are used to increase operational efficiency (low-risk offenders are monitored less than high-risk offenders), and allows the department to structure check-ins and probationer activities so that low-risk offenders are not exposed to higher-risk populations.

Child Abuse Prevention Education
Though resources are limited, Inyo County continually looks for opportunities to provide education and other prevention services to at-risk families. Social workers help parents access parenting classes and provide voluntary services to support parents and improve safety in high-risk homes. The Inyo County First 5 Commission has funded parenting classes and play-groups, and offers incentives to parents to encourage participation and follow-through. First 5 is also spearheading a Protective Factors Collaborative. This collaborative includes stakeholders from county health and social services, health care organizations, education, CBOs, private providers, and service organizations. This collaborative is working to improve parent resiliency and look for ways to identify and address service gaps for families.

Outreach to underserved populations
Underserved populations comprised a portion of the participants in the assessment process. There were both children and adults of Native-American and Hispanic/Latino ethnicity in the focus groups. Although there is a limited number of bilingual staff, those employees are utilized when a bilingual service needs to be offered. The Hispanic/Latino community is probably the most underserved population in the greater county community due to the language barrier as well as lack of access to services due to lack of citizenship. As previously stated, certain funding sources are utilized in an attempt to serve these community members. Their voices are also heard through the CSC membership of La Causa, a local organization which advocates for this population. Lastly, after the compilation and analysis of information that was received from the CSC focus group, the input was sent to various community members unable to attend this meeting. Feedback was sought and received from other CBOs, judges and attorneys, faith-based organizations, and Native-American community affiliates.

Evidence-based and evidence-informed practice
Inyo County has looked for ways to implement evidence-based and evidence informed practices in Inyo County. Wraparound has been implemented in recent years, and the county has also implemented a drug court model to help support sobriety rather than incarceration. The Inyo County Probation Department was one of three departments in California awarded Best Practices Approach Initiative grant. Goals of the grant include implementing and supporting evidence-based practices, such as Motivational Interviewing (MI), and Effective Practices in Community Supervision (EPICS). While the grant is focused on improving probation practice, training and implementation of MI has been extended to Wraparound, child welfare and behavioral health staff, as well. In Probation, EPICS is used to build rapport with clients, establish goals, and to intervene in criminogenic thinking.

Staff/Provider Training

For staff.
The Child Welfare Services department meets the state requirements for training by mandating that all Social Workers attend the state-approved core I and II training conducted at and through UC Davis. Additional training is provided on an individualized basis through close Social Worker and Supervisor relationships. The department also has access to approximately four in-county training days through the UC Davis Extension's Northern California Training Academy, which are individualized to the needs of those working in social services. Child Welfare staff also access compatible training opportunities that are offered by other agencies, such as the Domestic Violence Prevention Council, Probation, Behavioral Health, and the Inyo County Superintendent of Schools. The department tracks training attendance for support specialists, Social Workers, Social Worker Supervisor, and the Director of ICHHS in order to ensure every employee is receiving continued education on these topics.

Probation staff continues to be trained to S.T.C. (Standards and Training for Corrections) requirements even though funding for such training continues to decrease. In addition, other funding sources allow for training opportunities. In the past 18 months, Probation has done EPICS, Motivational Interviewing, and Evidence Based Practices training for community members and staff. The department is also looking at using realignment money to fund an EPICS-based substance abuse program to replace lost Prop 36 funding. Doing so will enhance the skills of local substance use treatment providers.

For foster parents.
To accommodate the busy schedules of foster parents and to provide training most relevant to each foster care situation, the Child Welfare Services department developed an individualized approach to training and supporting foster parents. Basic child development education requirements for foster parents are met through this lending library; specialized trainings on topics such as attachment disorders and adolescent behaviors are periodically provided in the community by UC Davis. With a focus on individualizing support for foster parents, CWS staff work one-on-one with foster parents as requested and needed through the 24-hour on-call system. When on-call, the CWS Social Worker is available to assist foster parents in managing the various issues that may arise.

Foster parent support was identified as a goal of the county's previous System improvement Plan. Over the past three years, child welfare staff have implemented a foster parent support group that meets monthly. Each support group meeting includes a 20-30 minute educational session provided by child welfare staff; the same amount of time is allotted for families to discuss challenges and areas of strength in the foster parent community. The training topics are driven by foster parent needs, or by regulatory changes or updates.

Agency Collaborations

There exists a strong commitment among those serving children and families to work together in ways that will hopefully achieve more positive outcomes for all parties. This is evidenced by

numerous collaborative meetings that are routinely held at all levels of service provision including both high level administrators as well as staff who provide direct service. In addition to these formalized meetings, one-on-one conversations and/or meetings between individuals and entities are common. Agencies are acutely aware of resource limitations and use collaborative meetings as a forum to identify ways to streamline and coordinate programs serving similar populations.

As previously stated, ICHHS and the First Five Commission is in the process of completing a 6-month book recording project with families involved through a family reunification referral. This project will hopefully increase family, and specifically, parent resiliency, emotional stability for the child, and create a routine for the family that may not have had one otherwise.

The Department of Public Health completed its annual flu shot clinic throughout the entire county. This is possible through a mobile clinic which may travel to the remote areas of the county and provide vaccines at no cost for an introductory amount of vaccinations; a minimal cost is required once the limit is reached for free vaccinations. This initiative assists in ensuring all members of a family are receiving appropriate seasonal medical care. In the spring of 2012, the department will also begin an initiative among the Native American communities in the county. Another mobile clinic will be able to various schools and after-school community centers in an attempt to fit these residents with current reading prescriptions. After the guest has received his/her prescription, within 72 hours, that individual will have a new pair of glasses free of cost. While this is a medical need being met, secondary gains are made through the possibility of decreasing challenging behaviors at school or in the home because the individual now has the proper tools to complete homework and other daily tasks.

The Children's Services Council, consisting of court personnel, community service providers, Native American providers, Hispanic/Latino providers, Probation, HHS staff, the private sector, local education agencies, Domestic Violence providers, meet on a bi-monthly basis to provide input, coordination, and collaborating on creating successful efforts and interventions for Child Welfare services.

The AB 636 Self-Assessment process is affording the community an opportunity to frame its services to children and families, beginning with child abuse prevention and ending with formal system intervention. This self-assessment provided a beginning forum for the community to provide feedback about Child Welfare services. Continued input will be encouraged and solicited over the year, and included in improvement planning activities. Formal reporting mechanisms to the community in regards to progress will be identified during the improvement planning process.

Summary Assessment

Inyo County's Child Welfare Self-Assessment was conducted during the second quarter of the 2011-2012 fiscal year. Participation and input from various community and agency stakeholders, as specified by AB 636, review of available data through State Child Welfare reporting systems, and other relevant documentation was used to analyze each state outcome in conjunction with County Child Welfare and Juvenile Probation systems that serve children and families.

The County Self-Assessment process is affording the community an opportunity to frame its services to children and families, beginning with child abuse prevention and ending with formal system intervention. Community stakeholders are invited to participate in ongoing system improvement efforts. Health and Human Services representatives report annual System Improvement Plan updates, Peer Quality Case Review findings and other program information to members of the Children's Services Council on a regular basis.

The self-assessment focuses on the County's strengths and areas needing improvement as they relate to Inyo's achievement of the State mandated outcomes. The outcomes include:

- Children are, first and foremost, protected from abuse and neglect.
- Children are safely maintained in their homes whenever possible and appropriate.
- Children have permanency and stability in their living situations without increasing reentry to foster care.
- The continuity of family relationships and connections is preserved for children.
- Families have enhanced capacity to provide for their children's needs.
- Children receive services appropriate to their educational needs.
- Children receive services adequate to their physical, emotional, and mental health needs.
- Youth emancipating from foster care are prepared to transition to adulthood.

Inyo County's ability to achieve success with children and families is significantly influenced by the large, rural geographical setting combined with low population density. These communities have high standards for the treatment of its children, a low tolerance for challenging behaviors, and an expectation that Child Welfare and Probation systems will address the related concerns in an urgent yet sensitive manner.

Safety Outcomes

Inyo County's low population, small communities and strong law enforcement institutions insure a higher degree of accountability for its citizens and, therefore, a safer environment for all. County strengths include:

- high levels of face-to-face oversight of children in placement
- individualized service provision through child-specific case planning
- commitment to and involvement in the lives of children and families either at-risk for or participating in the Child Welfare system as evidenced by many voluntary family maintenance casework with families

In addition, schools, law enforcement, and community agencies work effectively together in identifying and monitoring at-risk youth/families. The small size of Inyo's systems enhances these efforts.

Although the evidence is only anecdotal, the county receives a number of self-referrals from parents who are using various substances. The needs for the community will continue to revolve around a lack of resources readily available in the community, specifically substance use/abuse and parenting education groups. Areas for improvement might include:

- Continued implementation of Wraparound services in order to reduce the number of out-of-home placements, reduce recurrence of abuse, and help families increase their own community-based supports.
- Review Wraparound program and attempt to expand this program to receive referrals for younger children in the community who may be at risk of detention, probation, or out-of-home placement.
- Continued participation in activities that address substance abuse prevention and intervention.
- Consistently utilize the risk assessment tools at appropriate junctures to ensure that Child Welfare interventions not only promote child safety, but also reduce risk for recurrence and reentry.
- Support early prevention efforts, such as Protective Factors work in First 5, early treatment and intervention with young children and families.

Permanency and Stability Outcomes

When children can remain in the community and in proximity of his/her parent, reunification services can be successful and permanent, stable living situations can be achieved for children. As previously stated, the county does not run its own children's shelter. While other counties may find this to be a limitation, the lack of this resource helps Inyo County reinforce the desire to place children in a home setting, and preferably with a relative. The shared philosophies among all parties involved in service provision as well as their commitment to working together in the best interest of the child highlights a strength of the community. Other strengths in these outcomes include:

- Ability to keep sibling groups together
- Keeping children in the community and with families- 80% of children are in some sort of placement with family
- Low number of placement changes for children in care

A barrier to permanency and stability success in Inyo County appears to be its lack of local placement options and limited services, specifically with children involved in probation. These children are often placed out of the community as there are placements with more experience in dealing with challenging or high risk behaviors. The need for placement options has decreased with the formal Wraparound approach. However, continuing collaborative efforts to recruit,

retain, and train new local placement options could also help alleviate many of the consequences arising from out of the area placements.

Other areas for improvement or focus include:

- Utilizing the Family Finding Program as well as relative placements when working with children involved in probation.
- Exploring the implementation of TDMs for children in care; use of TDMs early on in case planning.
- Continuing to provide training to foster parents in order to increase their capacity to handle challenging behaviors.
- Improve change management and support managers and coaches in MI and EPICS to ensure effective adaptive change in the Probation practice model. Monitor and manage process fatigue.

Family Relationships and Community Connections

Individualizing services to meet the needs of children and families, which includes maintaining children within the community and in proximity of family supports is one of Inyo County's greatest strengths. Collaborative relationships between CWS system staff and the local ICWA representatives, along with Native American community service providers, are notable. Other strengths include:

- Continued efforts to place children in least restrictive environments in the community
- Continued efforts and successes with ICWA placements for the families in the Native American community
- Continued efforts in Child Welfare to find family members and connect children to a family resource
- Expansion of the working relationship between ICWA, ICJC, and Toiyabe services

The most significant barrier to maintaining family relationships and community connections is the lack of appropriate local placement options. Areas of improvement would include:

- Exploration of Indian Customary Adoption in Child Welfare.
- Services for counseling for families, mental health services for children, and parent education/support opportunities that address dealing with challenging behaviors.
- Sustain and maintain family support through a home-based service.
- Increase Probation's efforts to find family members and connect children to a family resource; increase Family Finding efforts for Probation
- Continuing efforts to complete TDMs throughout case planning with families and community members involved with the family.
- Improved ICWA/Probation communication and collaboration on juvenile cases, as appropriate.
- Continue to look for ways to forge and support improved and sustained collaboration among limited community resources. Strengthen CAPC and look for way to improve attendance and participation.

- Find appropriate agency to administer CAPIT funds (including consideration of County-based administration) through a home-based program that supports child abuse prevention by using PQCR and Self -Assessment findings to help redefine the priority services.

Child and Family Well-Being

Despite the constraints and challenges posed by geographic isolation, low population base, and limited local resources, Inyo County has a number of strengths that contribute to its ability to achieve positive outcomes for all youth, including transitional youth. The transitional youth will continue to be monitored due to the passage of AB 12/212, where children who "age out" in care will now be able to receive services up until the age of 21. Other strengths include:

- Children receiving proper medical, dental, academic, and psychotropic medication in a timely manner
- Continued placement of children in their community and in the least restrictive environment

Agency staff and community members are acutely aware of the needs of every child in the system, and feel the impact of a youth's success or failure to become independent adults. Young adults receive individualized planning, case monitoring, and support to the extent that financial resources and staff time allow. Commitment to assisting these transitional aged youth is evidenced by the positive, cross-system, collaborative relationships with behavioral health, probation, the juvenile court, law enforcement, local education agencies, and community-based organizations that serve high-risk populations.

Inyo's ability to achieve positive outcomes for transitional youth could be improved by addressing identified areas of weakness. Areas for improvement might include:

- Continuous research of affordable housing options.
- Engaging youth initially and then keeping them engaged.
- Enhance the employment skill building services available to ILP youth, transition-aged youth and parents.
- Identifying, recruiting, and offering services to all youth eligible for ILP services.
- Implementing TDMs early on in the case planning process.

Conclusion and Recommendations

Inyo County's Child Welfare systems have a number of strengths that include its unified philosophy, effective communication between involved parties, commitment to building and maintaining relationships/partnerships between community agencies, individualized approach to serving children and families, systems that support high levels of accountability, and relationships with local ICWA representatives.

Maintaining sufficient levels of trained staff will be important to further Inyo's ability to achieve outcomes for children and families. To enhance community involvement, maximize community strengths and resources, and broaden the scope of input, volunteers that include children and

families who receive services should continue to be recruited to participate in activities related to the implementation of the Child Welfare Improvement and Accountability Act.

Priority areas for improvement or focus:

1. The lack of local placement options for children is a common finding throughout this self-assessment. As a small, rural county with limited resources, Inyo experiences very real barriers to developing and maintaining a viable network of in-county placement options for children. However, Inyo County could begin to address the barriers by:

    - Developing a community-wide, systematic approach to recruiting, training, and retaining in-county placement options.
    - Continued Wraparound services in order to keep children with their families, in their own communities, and in familiar schools.
    - Development of and implementation of TDMs early on in case planning with probation and child welfare referrals.
    - Utilizing the Family Finders program and looking at relative placement when working with children and families involved in probation

2. Continued focus on maintaining an up-to-date CWS/CMS database as well as increasing knowledge about and accessing available reports will provide the information necessary to monitor services and achievement of Outcomes. Utilize available State and National data to make relevant comparisons as a component in continued self-assessment.

3. Focus prevention funds into addressing needs of families that are isolated and in service gaps. Continue to assess a preventive home-based service to include parent education and support services.

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Appendix A: CWS Outcomes System Summary Report for Inyo County, December 21, 2011, Data Extract: Quarter 3, 2011; Agency: Child Welfare

CWS Outcomes System Summary for Inyo County: 12.21.11

Report publication: Jan2012. Data extract: Q3 2011. Agency: Child Welfare.

Measure number	Type (CDSS UCB)	Measure description	National Standard or Goal	Baseline start date	Baseline end date	Baseline numerator	Baseline denominator	Baseline performance[1]	Baseline perf. rel. to natl std/goal (%)[2]	Most recent start date	Most recent end date	Most recent numerator	Most recent denominator	Most recent performance[1]	Most recent perf. rel. to natl std/goal (%)[2]	Direction[3]	Directional goal	Percent change[4]	Estimated # of children affected[5]
PR	U	Participation Rates: Referral Rates	N.A.	01/01/02	12/31/02	429	4,222	101.6	N.A.	01/01/10	12/31/10	335	3,800	8.8%	N.A.	N.A.[6]	-	N.A.[6]	N.A.[6]
PR	U	Participation Rates: Substantiation Rates	N.A.	01/01/02	12/31/02	55	4,222	13.0	N.A.	01/01/10	12/31/10	27	3,800	0.9	N.A.	N.A.[6]	-	N.A.[6]	N.A.[6]
PR	U	Participation Rates: Entry Rates	N.A.	01/01/02	12/31/02	19	4,222	4.5	N.A.	01/01/10	12/31/10	6	3,800	1.5	N.A.	N.A.[6]	-	N.A.[6]	N.A.[6]
PR	U	Participation Rates: In Care Rates	N.A.	07/01/03	07/01/03	18	4,136	4.4	N.A.	07/01/11	07/01/11	15	3,800	3.8	N.A.	N.A.[6]	-	N.A.[6]	N.A.[6]
S1.1	**U/C**	**No Recurrence Of Maltreatment**	**94.6**	**07/01/02**	**12/31/02**	**21**	**27**	**77.8**	**82.2**	**10/01/10**	**03/31/11**	**20**	**22**	**90.9**	**96.1**	**Yes**	**+**	**16.9%**	**3**
S2.1	**U/C**	**No Maltreatment In Foster Care**	**99.68**	**07/01/02**	**06/30/03**	**46**	**46**	**100.00**	**100.3**	**10/01/10**	**09/30/11**	**25**	**25**	**100.00**	**100.3**	**Yes**	**+**	**0.00%**	**0**
C1	**U/C**	**Reunification Composite**	**122.6**	**N.A.**	**06/30/03**	**N.A.**	**N.A.**	**148.7**	**136.0**	**N.A.**	**09/30/11**	**N.A.**	**N.A.**	**63.2**	**44**	**No**	**+**	**-68.8%**	**N.A.**
C1.1	U/C	Reunification Within 12 Months (Exit Cohort)	75.2	07/01/02	06/30/03	11	19	57.9	77.0	10/01/10	09/30/11	2	8	25.0	33.2	No	+	-56.8%	-3
C1.2	U/C	Median Time To Reunification (Exit Cohort)	5.4	07/01/02	06/30/03	N.A.	19	9.9	54.5	10/01/10	09/30/11	N.A.	8	13.1	41.2	No	-	32.3%	N.A.
C1.3	U/C	Reunification Within 12 Months (Entry Cohort)	48.4	01/01/02	06/30/02	4	4	100.0	206.6	04/01/10	09/30/10	1	2	50.0	103.3	No	+	-50.0%	-1
C1.4	U/C	Reentry Following Reunification (Exit Cohort)	9.9	07/01/01	06/30/02	0	2	0.0	N.A.	10/01/09	09/30/10	1	4	25.0	39.6	N.A.	-	N.A.	1
C2	**U/C**	**Adoption Composite**	**106.4**	**N.A.**	**06/30/03**	**N.A.**	**N.A.**	**N.A.**	**N.A.**	**N.A.**	**09/30/11**	**N.A.**	**N.A.**	**N.A.**	**N.A.**	**N.A.**	**+**	**N.A.**	**N.A.**
C2.1	U/C	Adoption Within 24 Months (Exit Cohort)	36.6	07/01/02	06/30/03	0	0	0.0	N.A.	10/01/10	09/30/11	0	0	0.0	N.A.	N.A.	+	N.A.	N.A.
C2.2	U/C	Median Time To Adoption (Exit Cohort)	27.3	07/01/02	06/30/03	N.A.	0	0.0	N.A.	10/01/10	09/30/11	N.A.	0	0.0	N.A.	N.A.	-	N.A.	N.A.
C2.3	U/C	Adoption Within 12 Months (17 Months in Care)	22.7	07/01/02	06/30/03	0	14	0.0	N.A.	10/01/10	09/30/11	0	4	0.0	N.A.	N.A.	+	N.A.	0
C2.4	U/C	Legally Free Within 6 Months (17 Months in Care)	10.9	07/01/02	12/31/02	0	16	0.0	N.A.	10/01/10	03/31/11	0	4	0.0	N.A.	N.A.	+	N.A.	0
C2.5	U/C	Adoption Within 12 Months (Legally Free)	53.7	07/01/01	06/30/02	0	0	0.0	N.A.	10/01/09	09/30/10	0	0	0.0	N.A.	N.A.	+	N.A.	N.A.
C3	**U/C**	**Long Term Care Composite**	**121.7**	**N.A.**	**06/30/03**	**N.A.**	**N.A.**	**N.A.**	**N.A.**	**N.A.**	**09/30/11**	**N.A.**	**N.A.**	**N.A.**	**N.A.**	**N.A.**	**+**	**N.A.**	**N.A.**
C3.1	U/C	Exits To Permanency (24 Months in Care)	29.1	07/01/02	06/30/03	1	14	7.1	24.5	10/01/10	09/30/11	0	3	0.0	N.A.	No	+	-100.0%	0
C3.2	U/C	Exits To Permanency (Legally Free At Exit)	98.0	07/01/02	06/30/03	0	0	0.0	N.A.	10/01/10	09/30/11	0	0	0.0	N.A.	N.A.	+	N.A.	N.A.
C3.3	U/C	In Care 3 Years Or Longer (Emancipated/Age 18)	37.5	07/01/02	06/30/03	2	3	66.7	56.3	10/01/10	09/30/11	1	1	100.0	37.5	No	-	50.0%	0
C4	**U/C**	**Placement Stability Composite**	**101.5**	**N.A.**	**06/30/03**	**N.A.**	**N.A.**	**63.6**	**26.4**	**N.A.**	**09/30/11**	**N.A.**	**N.A.**	**86.6**	**69.1**	**Yes**	**+**	**161.8%**	**N.A.**
C4.1	U/C	Placement Stability (8 Days To 12 Months in Care)	86.0	07/01/02	06/30/03	9	19	47.4	55.1	10/01/10	09/30/11	10	13	76.9	89.4	Yes	+	62.4%	4
C4.2	U/C	Placement Stability (12 To 24 Months in Care)	65.4	07/01/02	06/30/03	5	7	71.4	109.2	10/01/10	09/30/11	6	10	60.0	91.7	No	+	-16.0%	-1
C4.3	U/C	Placement Stability (At Least 24 Months in Care)	41.8	07/01/02	06/30/03	2	18	11.1	26.6	10/01/10	09/30/11	1	4	25.0	59.8	Yes	+	125.0%	1
2B	C	Timely Response (Imm. Response Compliance)	N.A.	04/01/03	06/30/03	13	13	100.0	N.A.	07/01/11	09/30/11	13	13	100.0	N.A.	Yes	+	0.0%	0
2B	C	Timely Response (10-Day Response Compliance)	N.A.	04/01/03	06/30/03	27	33	81.8	N.A.	07/01/11	09/30/11	38	42	90.5	N.A.	Yes	+	10.8%	4
2C**	C	Timely Social Worker Visits with Child (Month 1)**	N.A.	04/01/03	04/30/03	55	64	85.9	N.A.	07/01/11	07/31/11	40	40	100.0	N.A.	N.A.	N.A.	N.A.	N.A.
2C**	C	Timely Social Worker Visits with Child (Month 2)**	N.A.	05/01/03	05/31/03	50	64	78.1	N.A.	08/01/11	08/31/11	38	39	97.4	N.A.	N.A.	N.A.	N.A.	N.A.
2C**	C	Timely Social Worker Visits with Child (Month 3)**	N.A.	06/01/03	06/30/03	54	64	84.4	N.A.	09/01/11	09/30/11	33	39	84.6	N.A.	No	+	-1.5%	-1
4A	U	Siblings (All)	N.A.	07/01/03	07/01/03	2	2	100.0	N.A.	10/01/11	10/01/11	2	7	28.6	N.A.	No	+	-71.4%	-5
4A	U	Siblings (Some or All)	N.A.	07/01/03	07/01/03	2	2	100.0	N.A.	10/01/11	10/01/11	7	7	100.0	N.A.	Yes	+	0.0%	0
4B	U	Least Restrictive (Entries First Plc: Relative)	N.A.	07/01/02	06/30/03	5	13	38.5	N.A.	10/01/10	09/30/11	8	11	81.8	N.A.	Yes	+	112.7%	5
4B	U	Least Restrictive (Entries First Plc: Foster Home)	N.A.	07/01/02	06/30/03	7	13	53.8	N.A.	10/01/10	09/30/11	2	11	18.2	N.A.	N.A.	N.A.	-66.2%	-4
4B	U	Least Restrictive (Entries First Plc: FFA)	N.A.	07/01/02	06/30/03	0	13	0.0	N.A.	10/01/10	09/30/11	0	11	0.0	N.A.	N.A.	N.A.	N.A.	0
4B	U	Least Restrictive (Entries First Plc: Group/Shelter)	N.A.	07/01/02	06/30/03	1	13	7.7	N.A.	10/01/10	09/30/11	0	11	0.0	N.A.	Yes	-	-100.0%	-1
4B	U	Least Restrictive (Entries First Plc: Other)	N.A.	07/01/02	06/30/03	0	13	0.0	N.A.	10/01/10	09/30/11	0	11	0.0	N.A.	N.A.	N.A.	N.A.	0
4B	U	Least Restrictive (PIT Placement: Relative)	N.A.	07/01/03	07/01/03	3	18	16.7	N.A.	10/01/11	10/01/11	12	15	80.0	N.A.	Yes	+	380.0%	10
4B	U	Least Restrictive (PIT Placement: Foster Home)	N.A.	07/01/03	07/01/03	5	18	27.8	N.A.	10/01/11	10/01/11	2	15	13.3	N.A.	N.A.	N.A.	-52.0%	-2
4B	U	Least Restrictive (PIT Placement: FFA)	N.A.	07/01/03	07/01/03	2	18	11.1	N.A.	10/01/11	10/01/11	0	15	0.0	N.A.	N.A.	N.A.	-100.0%	-2
4B	U	Least Restrictive (PIT Placement: Group/Shelter)	N.A.	07/01/03	07/01/03	4	18	22.2	N.A.	10/01/11	10/01/11	0	15	0.0	N.A.	Yes	-	-100.0%	-3
4B	U	Least Restrictive (PIT Placement: Other)	N.A.	07/01/03	07/01/03	4	18	22.2	N.A.	10/01/11	10/01/11	1	15	6.7	N.A.	N.A.	N.A.	-70.0%	-2
4E (1)	U/C	ICWA Eligible Placement Status	N.A.	Data available online.					N.A.	Data available online.					N.A.	N.A.	N.A.	N.A.	N.A.
4E (2)	U/C	Multi-Ethnic Placement Status	N.A.	Data available online.					N.A.	Data available online.					N.A.	N.A.	N.A.	N.A.	N.A.
5B (1)	C	Rate of Timely Health Exams	N.A.	04/01/03	06/30/03	14	18	77.8	N.A.	07/01/11	09/30/11	14	14	100.0	N.A.	Yes	+	28.6%	3
5B (2)	C	Rate of Timely Dental Exams	N.A.	04/01/03	06/30/03	8	18	44.4	N.A.	07/01/11	09/30/11	2	10	20.0	N.A.	No	+	-55.0%	-2
5F	C	Authorized for Psychotropic Medication	N.A.	04/01/03	06/30/03	6	23	26.1	N.A.	07/01/11	09/30/11	1	17	5.9	N.A.	N.A.	N.A.	-77.5%	-3
8B	C	Individualized Education Plan	N.A.	04/01/03	06/30/03	7	21	33.3	N.A.	07/01/11	09/30/11	0	17	0.0	N.A.	N.A.	N.A.	-100.0%	-6
8A*	C	Completed High School or Equivalency*	N.A.	04/01/03	06/30/03	N.A.	N.A.	N.A.	N.A.	07/01/11	09/30/11	0	0	0.0	N.A.	N.A.	N.A.	N.A.	N.A.
8A*	C	Obtained Employment*	N.A.	04/01/03	06/30/03	N.A.	N.A.	N.A.	N.A.	07/01/11	09/30/11	0	0	0.0	N.A.	N.A.	N.A.	N.A.	N.A.
8A*	C	Have Housing Arrangements*	N.A.	04/01/03	06/30/03	N.A.	N.A.	N.A.	N.A.	07/01/11	09/30/11	0	0	0.0	N.A.	N.A.	N.A.	N.A.	N.A.
8A*	C	Received ILP Services*	N.A.	04/01/03	06/30/03	N.A.	N.A.	N.A.	N.A.	07/01/11	09/30/11	0	0	0.0	N.A.	N.A.	N.A.	N.A.	N.A.
8A*	C	Permanency Connection with an Adult*	N.A.	04/01/03	06/30/03	N.A.	N.A.	N.A.	N.A.	07/01/11	09/30/11	0	0	0.0	N.A.	N.A.	N.A.	N.A.	N.A.

http://cssr.berkeley.edu/ucb_childwelfare/Ccfsr.aspx

Appendix B: Probation Outcomes System Summary Report for Inyo County, December 21, 2011, Data Extract: Quarter 3, 2011; Agency: Probation

CWS Outcomes System Summary for Inyo County--12.22.11
Report publication: JAN2012. Data extract: Q3 2011. Agency: Probation.

									Comparison to baseline	
Measure number	Measure description	Most recent start date	Most recent end date	Most recent numerator	Most recent denominator	Most recent performance[1]	National Standard or Goal	Most recent perf. rel. to nat'l std/goal[2]	Direction?[3]	Percent change[4]
PR	Participation Rates: Referral Rates[5]	01/01/10	12/31/10	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
PR	Participation Rates: Substantiation Rates[5]	01/01/10	12/31/10	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
PR	Participation Rates: Entry Rates	01/01/10	12/31/10	0	3,900	0.0	N.A.	N.A.	N.A.[6]	N.A.[6]
PR	Participation Rates: In Care Rates	07/01/11	07/01/11	8	3,900	2.1	N.A.	N.A.	N.A.[6]	N.A.[6]
S1.1	**No Recurrence Of Maltreatment[5]**	**10/01/10**	**03/31/11**	**N.A.**	**N.A.**	**N.A.**	**94.6**	**N.A.**	**N.A.**	**N.A.**
S2.1	**No Maltreatment In Foster Care**	**10/01/10**	**09/30/11**	**11**	**11**	**100.00**	**99.68**	**100.3**	**Yes**	**0.00%**
C1	**Reunification Composite[5]**	**N.A.**	**09/30/11**	**N.A.**	**N.A.**	**N.A.**	**122.6**	**N.A.**	**N.A.**	**N.A.**
C1.1	Reunification Within 12 Months (Exit Cohort)	10/01/10	09/30/11	0	0	0.0	75.2	N.A.	N.A.	N.A.
C1.2	Median Time To Reunification (Exit Cohort)	10/01/10	09/30/11	N.A.	0	0.0	5.4	N.A.	N.A.	N.A.
C1.3	Reunification Within 12 Months (Entry Cohort)	04/01/10	09/30/10	0	0	0.0	48.4	N.A.	N.A.	N.A.
C1.4	Reentry Following Reunification (Exit Cohort)	10/01/09	09/30/10	0	1	0.0	9.9	N.A.	N.A.	N.A.
C2	**Adoption Composite[5]**	**N.A.**	**09/30/11**	**N.A.**	**N.A.**	**N.A.**	**106.4**	**N.A.**	**N.A.**	**N.A.**
C2.1	Adoption Within 24 Months (Exit Cohort)	10/01/10	09/30/11	0	0	0.0	36.6	N.A.	N.A.	N.A.
C2.2	Median Time To Adoption (Exit Cohort)	10/01/10	09/30/11	N.A.	0	0.0	27.3	N.A.	N.A.	N.A.
C2.3	Adoption Within 12 Months (17 Months In Care)	10/01/10	09/30/11	0	3	0.0	22.7	N.A.	N.A.	N.A.
C2.4	Legally Free Within 5 Months (17 Months In Care)	10/01/10	03/31/11	0	3	0.0	10.9	N.A.	N.A.	N.A.
C2.5	Adoption Within 12 Months (Legally Free)	10/01/09	09/30/10	0	0	0.0	53.7	N.A.	N.A.	N.A.
C3	**Long Term Care Composite[5]**	**N.A.**	**09/30/11**	**N.A.**	**N.A.**	**N.A.**	**121.7**	**N.A.**	**N.A.**	**N.A.**
C3.1	Exits To Permanency (24 Months In Care)	10/01/10	09/30/11	0	0	0.0	29.1	N.A.	N.A.	N.A.
C3.2	Exits To Permanency (Legally Free At Exit)	10/01/10	09/30/11	0	0	0.0	98.0	N.A.	N.A.	N.A.
C3.3	In Care 3 Years Or Longer (Emancipated/Age 18)	10/01/10	09/30/11	0	1	0.0	37.5	N.A.	N.A.	N.A.
C4	**Placement Stability Composite[5]**	**N.A.**	**09/30/11**	**N.A.**	**N.A.**	**N.A.**	**101.5**	**N.A.**	**N.A.**	**N.A.**
C4.1	Placement Stability (8 Days To 12 Months In Care)	10/01/10	09/30/11	3	3	100.0	86.0	116.3	Yes	0.0%
C4.2	Placement Stability (12 To 24 Months In Care)	10/01/10	09/30/11	3	3	100.0	65.4	152.9	Yes	20.0%
C4.3	Placement Stability (At Least 24 Months In Care)	10/01/10	09/30/11	2	3	66.7	41.8	159.5	N.A.	N.A.
2B	Timely Response (Imm. Response Compliance)[5]	07/01/11	09/30/11	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
2B	Timely Response (10-Day Response Compliance)[5]	07/01/11	09/30/11	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
2C**	Timely Social Worker Visits with Child (Month 1)[5],**	Jul 2011	Jul 2011	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
2C**	Timely Social Worker Visits with Child (Month 2)[5],**	Aug 2011	Aug 2011	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
2C**	Timely Social Worker Visits with Child (Month 3)[5],**	Sep 2011	Sep 2011	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
4A	Siblings (All)[5]	10/01/11	10/01/11	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
4A	Siblings (Some or All)[5]	10/01/11	10/01/11	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
4B	Least Restrictive (Entries First Plc.: Relative)	10/01/10	09/30/11	0	1	0.0	N.A.	N.A.	N.A.	N.A.
4B	Least Restrictive (Entries First Plc.: Foster Home)	10/01/10	09/30/11	0	1	0.0	N.A.	N.A.	N.A.	N.A.
4B	Least Restrictive (Entries First Plc.: FFA)	10/01/10	09/30/11	0	1	0.0	N.A.	N.A.	N.A.	N.A.
4B	Least Restrictive (Entries First Plc.: Group/Shelter)	10/01/10	09/30/11	1	1	100.0	N.A.	N.A.	No	40.0%
4B	Least Restrictive (Entries First Plc.: Other)	10/01/10	09/30/11	0	1	0.0	N.A.	N.A.	N.A.	-100.0%
4B	Least Restrictive (PIT Placement: Relative)	10/01/11	10/01/11	1	12	8.3	N.A.	N.A.	No	-37.5%
4B	Least Restrictive (PIT Placement: Foster Home)	10/01/11	10/01/11	0	12	0.0	N.A.	N.A.	N.A.	N.A.
4B	Least Restrictive (PIT Placement: FFA)	10/01/11	10/01/11	0	12	0.0	N.A.	N.A.	N.A.	N.A.
4B	Least Restrictive (PIT Placement: Group/Shelter)	10/01/11	10/01/11	2	12	16.7	N.A.	N.A.	Yes	-68.8%
4B	Least Restrictive (PIT Placement: Other)	10/01/11	10/01/11	9	12	75.0	N.A.	N.A.	N.A.	125.0%
4E (1)	ICWA Eligible Placement Status	Data available: http://cssr.berkeley.edu/ucb_childwelfare/CDSS_4E.aspx					N.A.	N.A.	N.A.	N.A.
4E (2)	Multi-Ethnic Placement Status	Data available: http://cssr.berkeley.edu/ucb_childwelfare/CDSS_4E.aspx					N.A.	N.A.	N.A.	N.A.
5B (1)	Rate of Timely Health Exams[5]	07/01/11	09/30/11	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
5B (2)	Rate of Timely Dental Exams[5]	07/01/11	09/30/11	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
5F	Authorized for Psychotropic Medication[5]	07/01/11	09/30/11	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
6B	Individualized Education Plan[5]	07/01/11	09/30/11	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
8A*	Completed High School or Equivalency*	07/01/11	09/30/11	0	0	0.0	N.A.	N.A.	N.A.	N.A.
8A*	Obtained Employment*	07/01/11	09/30/11	0	0	0.0	N.A.	N.A.	N.A.	N.A.
8A*	Have Housing Arrangements*	07/01/11	09/30/11	0	0	0.0	N.A.	N.A.	N.A.	N.A.
8A*	Received ILP Services*	07/01/11	09/30/11	0	0	0.0	N.A.	N.A.	N.A.	N.A.
8A*	Permanency Connection with an Adult*	07/01/11	09/30/11	0	0	0.0	N.A.	N.A.	N.A.	N.A.

http://cssr.berkeley.edu/ucb_childwelfare/Ccfsr.aspx

Appendix C: CSA Participants

Name	Title	Department or Organization	Other Representation or Affiliation	Required
Jean Turner	Director	Health and Human Services (HHS)	Foster Care Commission Co-Chair	X
Linda Benson	Assistant Director	HHS	County Drug and Alcohol Administrator; Children's Services Council* (CSC) Co-Chair; Wraparound Mid-Management Team	X
Marilyn Mann	Adult and Children's Social Services Division Director	HHS	CAPC Representative; CAPIT/CBCAP/PSSF Liaison; Wraparound Mid-Management Team	X
Jeff Thomson	Chief	Probation	Juvenile Justice Commission; CSC; CSC Prevention Sub-Committee	X
Jacob Morgan	Deputy Director of Adult and Juvenile Services	Probation	Wraparound Mid-Management Team	X
Alisa Lembke	Administrative Legal Secretary	Probation		X
Krista Cooper	Child Welfare Social Worker Supervisor	HHS	CSC	X
Megan Solorio	Child Welfare Human Services Supervisor	HHS		X
Holly DeVincent	Child Welfare Social Worker	HHS		X
Michael Goodall	Child Welfare Social Worker	HHS		X
Skye Milos	Child Welfare Social Worker	HHS		X
Linda Durbin	Child Welfare Social Worker	HHS		X
Casey Jasaitis	Child Welfare HHS Specialist	HHS		X
Shannon	Child Welfare	HHS		X

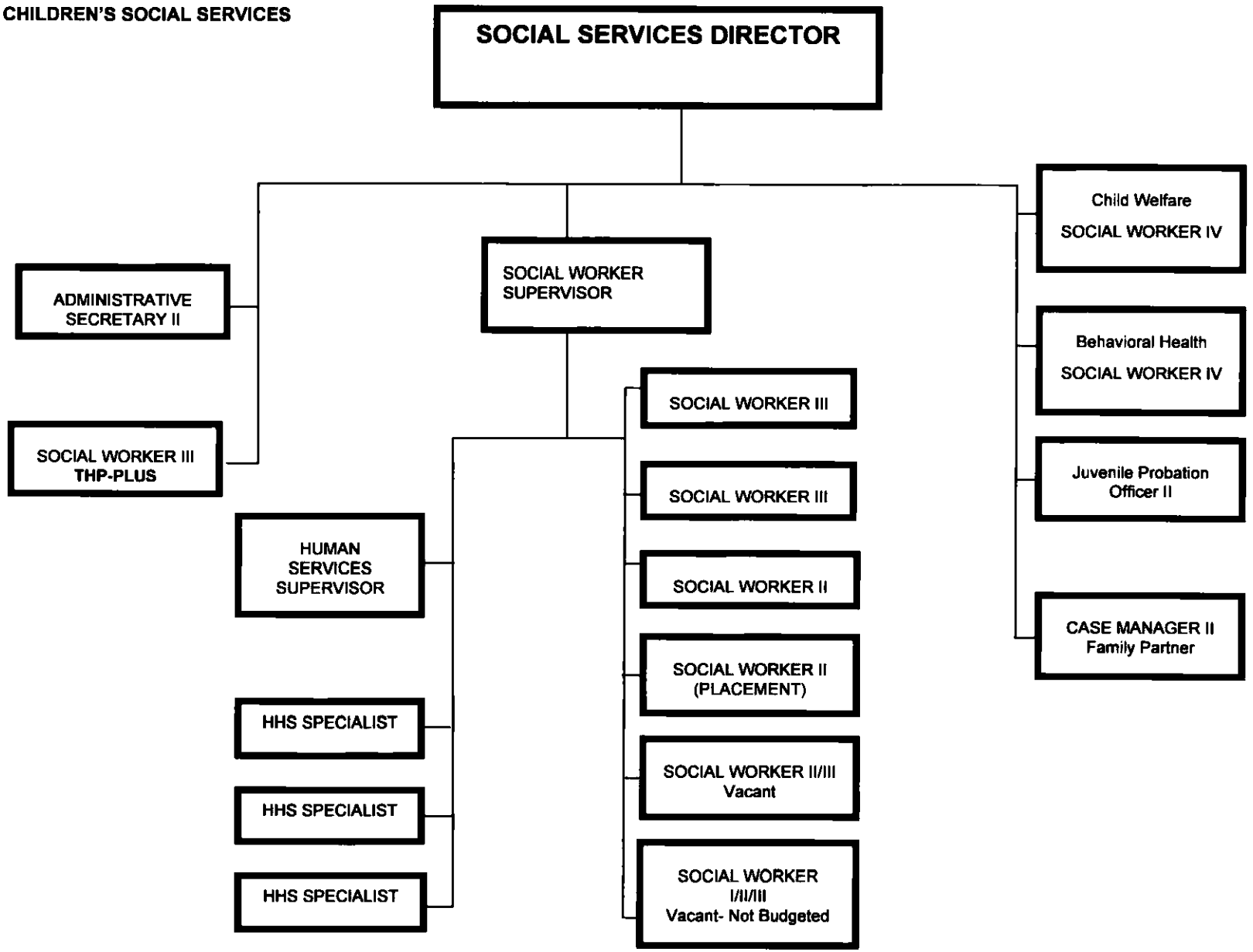
Barlow	HHS Specialist			
Susan Sipes	Child Welfare HHS Specialist	HHS		X
Anna Scott	Management Analyst	HHS	Wraparound Mid-Management Team	X
Jill Koehn	Child Welfare Administrative Secretary	HHS		X
Dr. Gail Zwier	Behavioral Health Division Director	HHS	Wraparound Mid-Management Team; Mental Health Advisory Council	X
Pamela Blackwell	Psychotherapist, Behavioral Health Division	HHS	Children's Services Council Chair, Wraparound Mid-Management Team	X
Tamara Cohn	Public Health Division Director	HHS	CSC; Child Death Review Team	X
Margaret Romero	ICWA Representative	Bishop Paiute Tribe		X
Parent Representative		Four parents of foster children participated in focus group		X
Foster Youth		Four foster youth participated in focus group		X
Foster Parents		Seven foster parents participated in focus group		
Honorable Dean Stout	Presiding Superior and Juvenile Court Judge	Inyo County Superior Court	CSC, Juvenile Justice Commission Chair, Foster Care Commission Co-Chair	
Rick Pucci	Third District Supervisor	Inyo County Board of Supervisors	CSC, Mental Health Advisory Council	
Dr. Terrence McAteer	County Superintendent of Schools	Inyo County Superintendent of Schools Office	CSC	
Joel Hampton	Superintendent	Owens Valley Unified School	CSC	

		District		
Lisa Reel	Director	Wild Iris (Domestic Violence Prevention Provider)	CSC	
David Lent	Executive Director	Toiyabe Indian Health Project	CSC	
Jody Veenker	First Five Director	HHS	Protective Factors Collaboration	
Karen Kong	Prevention Supervisor	HHS	CSC; CSC Prevention Sub-Committee Chair; Youth Coalition	
Art Maillet	District Attorney	Inyo County District Attorney's Office	CSC	

COUNTY OF INYO

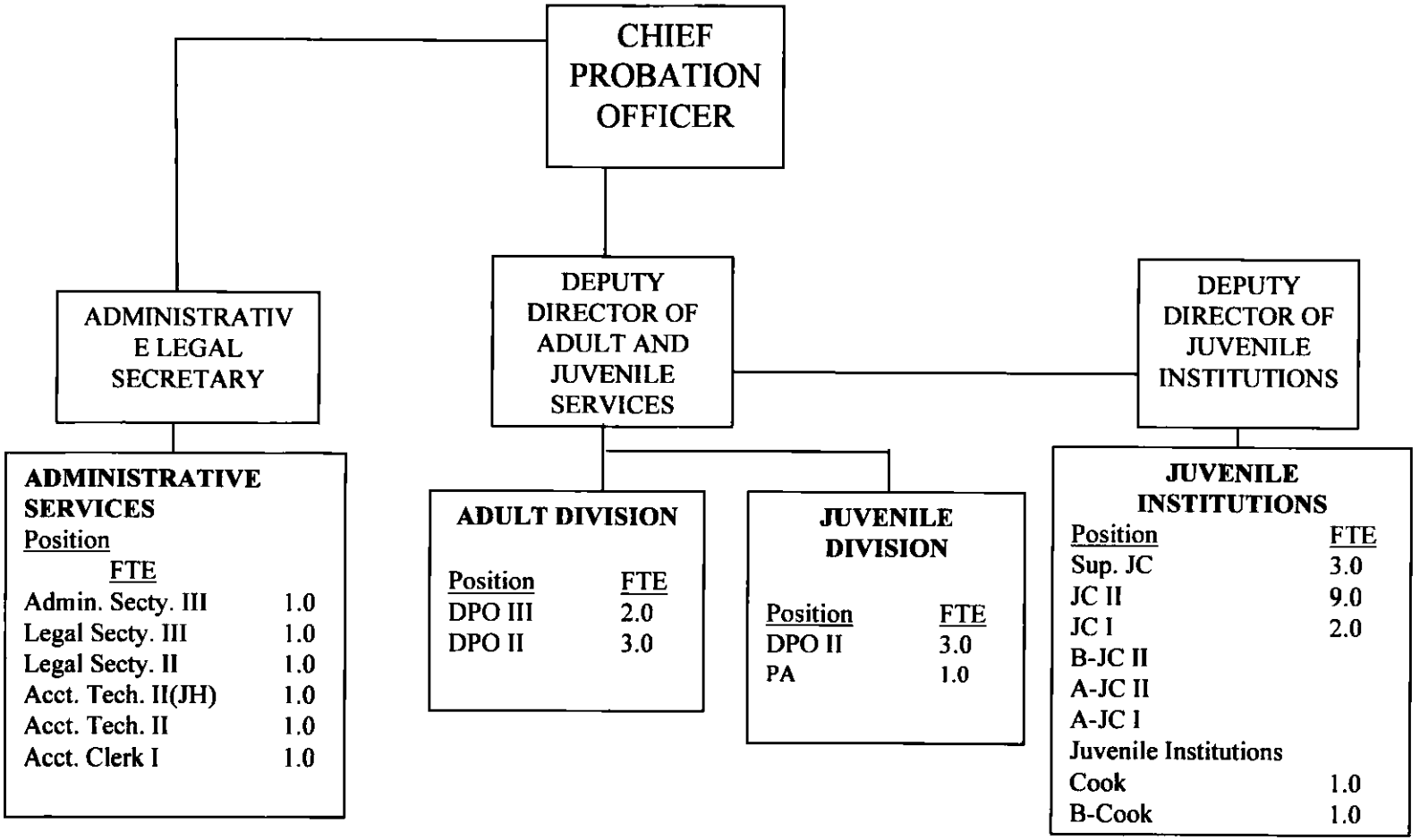
HEALTH & HUMAN SERVICES

CHILDREN'S SOCIAL SERVICES



Appendix D: Child Welfare Services Organizational Chart

Appendix E: Probation Organizational Chart



Appendix F: Children's Services Council Focus Group

Inyo County Health and Human Services
Social Services Division
Focus Group with Children's Services Council (local CAPC) for County Child Welfare System Self-Assessment
November 18, 2011

Description of the California Children and Family Services Review process: In 2004, implementation of Assembly Bill 636 brought a new Child Welfare Systems Outcome and Accountability System to California. This review process focuses on measuring outcomes in the areas of safety, permanency, and child and family well-being. Locally, each county collects data and performs a cyclical review process, including a Peer Quality Case Review (PQCR) and a County Self-Assessment, both of which feed into a 5-year System Improvement Plan.

The Inyo County Child Welfare and Juvenile Probation divisions hosted a PQCR in June of this year and are now in the process of conducting a self-assessment of the County Child Welfare system. We are requesting your participation and input regarding the strengths and needs of the County Child Welfare and Juvenile Probation systems that serve children and families.

In addition to providing suggestions and feedback to us today, you will have an opportunity to review the draft self-assessment report and provide additional feedback. Many of you will also be asked to sign the final report, certifying that you participated in the self-Assessment process. We sincerely appreciate your comments and suggestions.

OUTCOMES

- Children are, first and foremost, protected from abuse and neglect.
- Children are maintained safely in their homes whenever possible and appropriate.
- Children have permanency and stability in their living situations without increasing reentry to foster care.
- The family relationships and connections of the children served by the CWS will be preserved, as appropriate.
- Children receive services adequate to their physical, emotional and mental health needs.
- Children receive services appropriate to their educational needs.
- Families have enhanced capacity to provide for their children's needs.
- Youth emancipating from foster care are prepared to transition to adulthood.

BOLD ANSWERS WERE STRONGEST RESPONSES

1. **What areas of strength have you observed in the local child welfare system?**
    a. Smallness of county allows for focus on long-term, systemic change as opposed to "triage" care
    b. Enhance family strengths to promote safety in the home (Strengths perspective of Social Work)
    c. Social workers follow case in its entirety and truly knows/understand family
    d. Good, effective communication despite confidentiality issues; willingness to share cross systems
    e. Small social work caseload numbers; ability to intervene on safety issues in order to maintain children in the home
    f. Overarching philosophy of keeping our kids in their home or in our county (family preference); focus on stability in child's life

2. **What can be improved about the child welfare system in Inyo County?**
    a. Access to treatment for our consumers (quantity of quality care facilities)
    b. Limited staff resources (educational outlets, referring places)
    c. Educating mandated reporters on the CPS/filing process
    d. Sometimes a breakdown in communication between LEA & CPS

3. **What service gaps exist in Inyo County that could, if addressed, help to decrease the occurrence of child abuse locally?**
    a. Parent mentoring/coaching
    b. Ways to incentivize participation among different consumers
    c. Respite care for high-end children
    d. Parent education forms to target "at risk" groups
    e. In-home service to multi-challenged families that focus on parenting, life skills, case management, etc.
    f. Increased involvement with our Native American communities
    g. Basic family needs (food, shelter, employment, water, health, clothing, Maslow's physiological and safety & security tiers of pyramid)

4. **What collaborations do you feel have been particularly effective in improving the outcomes of the Child Welfare system?**
    a. ICPARRT
    b. MDT
    c. Internal framework of ICHHS (SUD, MH, CPS, Benefits, etc.)
    d. All agencies willing to come to the table together; no "turf" issues

5. **What other opportunities do you feel should be pursued to improve collaboration and continuity of services to children and families involved in the child welfare system?** ***(Also included 6)***
    a. **Let's look at MDT & ICPARRT again**
    b. **Including AYSO, Little League, Boys/Girl Scouts, and other service agencies that work with children when offering a "Mandated Reporter" Educational Forum**
    c. **Changing the image of CPS into a more positive, family-oriented, wanting to help agency…**

Closing Remarks: Thank you again for your time and willingness to share your experiences and ideas. We will incorporate information gained in focus groups and other stakeholder meetings into the County Self-Assessment (CSA) report. A draft report will be available in mid-December and the final report will be submitted to the California Department of Social Services in Mid-February, 2012.

Appendix G: Foster Parent Focus Group

Inyo County Health and Human Services
Social Services Division
Focus Group with Foster Parents for
County Child Welfare System Self-Assessment
December 1, 2011

Description of the California Children and Family Services Review process: In 2004, implementation of Assembly Bill 636 brought a new Child Welfare Systems Outcome and Accountability System to California. This review process focuses on measuring outcomes in the areas of safety, permanency, and child and family well-being. Locally, each county collects data and performs a cyclical review process, including a Peer Quality Case Review (PQCR) and a County Self-Assessment, both of which feed into a 5-year System Improvement Plan.

The Inyo County Child Welfare and Juvenile Probation divisions hosted a PQCR in June of this year and are now in the process of conducting a self-assessment of the County Child Welfare system. We are requesting your participation and input regarding the strengths and needs of the County Child Welfare and Juvenile Probation systems that serve children and families.

In addition to providing suggestions and feedback to us today, you will have an opportunity to review the draft self-assessment report and provide additional feedback. Many of you will also be asked to sign the final report, certifying that you participated in the self-Assessment process. We sincerely appreciate your comments and suggestions.

OUTCOMES

- Children are, first and foremost, protected from abuse and neglect.
- Children are maintained safely in their homes whenever possible and appropriate.
- Children have permanency and stability in their living situations without increasing reentry to foster care.
- The family relationships and connections of the children served by the CWS will be preserved, as appropriate.
- Children receive services adequate to their physical, emotional and mental health needs.
- Children receive services appropriate to their educational needs.
- Families have enhanced capacity to provide for their children's needs.
- Youth emancipating from foster care are prepared to transition to adulthood.

The information you choose to share will be used in a confidential manner and will help the county with improving its services that are currently provided as well as possibly aid in creating new services. There are no right or wrong answers or responses, only helpful information.

Questions to Local Foster Parents

1. What are some of the things County Social Workers have done that helped you when a child was placed in your home?
    a. Sat with us and discussed the plan. I appreciate the openness and ability to communicate with the workers and staff
    b. Help with necessities for providing for the child- diapers, formula, etc.
    c. Provide good history of child's info
    d. Good amount of access to SW- FTF, phone calls
    e. Provide as much stability in the instability

2. What are some of the things County Social Workers could have done to help you when a child was placed in your home?
    a. Notify us when the SW changes
    b. Being introduced/knowing names of people involved with child(ren)'s situation
    c. SW/FP working together to create a healthier routine for the child
    d. Keeping us 'in the loop' with issues kids are having in our homes

3. What makes a good placement last?
    a. Good support when questions and issues arise
    b. Kids with fewer challenges/obstacles for the FP
    c. Quality parent visitation- rather than an hour a day in the afternoon when baby is sleeping, let's do in the AM when baby is alert and ready to engage
    d. Open communication between SW & FP so FP can remedy any issues that are occurring in the home- don't keep us 'out of the loop'

4. If children were moved from your home, please tell us some of the reasons for such move.
    a. Transitioning back to family placement- sometimes family isn't always the better option because it can cause many changes to the child(ren)'s routine

5. If children were moved from your home, are there any services or resources that might have helped to avoid this?

6. What resources do you think would help foster parents commit to providing placements on a long-term basis?

7. Do you feel, in general, that you receive enough information and/or documentation about children before they are placed with you? If not, what information and/or documentation would be helpful?
    a. Yeah, mostly, but the more the better – parent issues, behavioral, etc. issues, medical issues (especially from probation- why don't they attend our group?)

8. When children are being moved from your home, what do you think is the best way to have this happen for the child as well as for your family?

9. How often do the child (ren)'s Social Workers visit them in your home?
    a. As often as necessary! They often come in when dropping him off or for paper work. It's usually been a couple times a month, but I didn't know they were supposed to come in – it just worked in the daily business

10. What can you suggest, if anything, that would make Social Workers more productive?
    a. Personally, I would like to be able to email my short questions or informational updates, then the SW could contact me when convenient. Then I wouldn't have to interrupt them with a phone call or have to leave a message. Caller ID could help too! Productivity is about managing interruptions.

11. What recommendations would you make in regards to how the County can best recruit and sustain foster parents (include any policies, practices, regulations, etc.)?
    a. Find family situations (churches, sports leagues, scouts...?), and do presentations to groups there. At those presentations we could find out what keeps people from becoming foster parents and trouble shoot those issues where possible
    b. Tell about the positive side of being a FP- we do it b/c of what they (the kids) do for us.
    c. Tell how family life **will not** change when becoming a FP
    d. Educate and guide families better through the process, paperwork, rules, regs, etc.

12. This Caregiver Support Group was established with the following goals in mind:

    Provide ongoing training and support to caregivers to:
    i. insure that caregivers have the tools they need to provide care to foster youth,
    ii. Insure that when problem behaviors occur that they feel able to handle the issues or know that they will have support in addressing the behaviors.

a. Do you feel that this support group has met those goals?
    - Absolutely. The trainings are ok, some good – but the support group nature, the Q & A, and getting to know the workers, staff, & management personally are the most valuable. I know the people I am talking to, have built some trust with them, and hopefully they with me. That is the basis for effectiveness.

b. Are there other areas of support that you think should be added to the caregiver group meetings?
    - Levels of parental rights the parents have retained
    - How to develop a working relationship with the parents if possible (our attitudes towards parents, and how we can be presented as a healthy avenue for their kids; I don't have much experience, but I heard at the meeting a lot of defensiveness against parents)

- School communication and dealing with issues
- Processing skills, and developmental issues with kids

13. Is there anything else you would like to add?
    a. In the licensing process – more follow up and communication could be helpful. I know my process went fast, but even then there were times I wondered what was going on. Also with someone else looking into it, they felt like they weren't pursued and supported in the process. Some of this is our own fault, but it's always good to look and see where we can improve, and you are doing that!
    b. Having a meeting between SW, Bio, FP, and IP to discuss boundaries, the situation, and letting everyone know their 'role' (FP not here to replace Bio)

Appendix H: Youth Involved with Child Welfare Services Focus Group

Inyo County Health and Human Services
Social Services Division
Focus Group with Foster Youth for
County Child Welfare System Self-Assessment
December 6, 2011

Description of the California Children and Family Services Review process: In 2004, implementation of Assembly Bill 636 brought a new Child Welfare Systems Outcome and Accountability System to California. This review process focuses on measuring outcomes in the areas of safety, permanency, and child and family well-being. Locally, each county collects data and performs a cyclical review process, including a Peer Quality Case Review (PQCR) and a County Self-Assessment, both of which feed into a 5-year System Improvement Plan.

The Inyo County Child Welfare and Juvenile Probation divisions hosted a PQCR in June of this year and are now in the process of conducting a self-assessment of the County Child Welfare system. We are requesting your participation and input regarding the strengths and needs of the County Child Welfare and Juvenile Probation systems that serve children and families.

We are going to ask you to share information about your personal experiences with child welfare and, in some cases, juvenile probation, including experiences you have had in out-of-home placement. The information you choose to share will be used in a confidential manner and will help the county with improving its services that are currently provided as well as possibly aid in creating new services. There are no right or wrong answers or responses, only helpful information. We are recording this meeting to help us later correctly capture your responses, but you will not be directly identified in connection with the responses you provide in our report.

Exception to Confidentiality: By law, if you tell us that you have been hurt by someone, or that you have hurt another person, we are required to report that information to the appropriate agency.

OUTCOMES

- Children are, first and foremost, protected from abuse and neglect.
- Children are maintained safely in their homes whenever possible and appropriate.
- Children have permanency and stability in their living situations without increasing reentry to foster care.
- The family relationships and connections of the children served by the CWS will be preserved, as appropriate.
- Children receive services adequate to their physical, emotional and mental health needs.
- Children receive services appropriate to their educational needs.
- Families have enhanced capacity to provide for their children's needs.
- Youth emancipating from foster care are prepared to transition to adulthood

1. What are some of the things your Social Worker or Probation Officer did that helped you?
    a. Gave ideas on how to build rapport with people
    b. Explained stuff so I understood
    c. Kept me out of trouble- let me throw fits but also set limits

2. What would you say are some of the things a Probation Officer or Social Worker could do to help kids?
    a. When things change, let me know because I was often the last to know
    b. Should have been warned about changes b/c the focus is on US
    c. (Changes) It's unfair b/c you have to get to know them (workers) all over and sometimes it feels like they (workers) don't want to get to know you

3. Who are the other people in your life that have helped you, other than family (e.g. teachers, friends, mentors, etc.)?
    a. Foster dad, Church
    b. How have they helped you? They help me by supporting me in general and by helping me with my anger.

4. While in placement, did you have contact with your family?
    a. YES- but sometimes it was too much of a hassle because the Bio Parent can be rude or mean, it can cause too much drama so you just want to give up. Asking questions, tone, what they say.

5. What makes a good placement last?
    a. Good foster parents; SW that stay with the case and are more involved; Events FP can attend to stay involved; activities for FP to do with FC so the FC don't feel left out; SW having thoughtful visits, not just 'check-ups'

6. If there was a placement you had to leave, but wish you could have stayed:
    a. Was there anything someone could have done to help you stay there?

    b. Was there anything you could have done differently to stay there?
        i. I should have listened to my FP more; I felt like I had freedom and since she wasn't my parent I didn't need to listen, but she was trying to keep me out of trouble

7. If there was a placement you wish you could have left sooner, why did you want to leave?
    a. Sibling dynamic can be new to some and challenging; sometimes you feel like the maid and you are ganged up on.

8. Did you have anyone you could depend on for guidance and/or support after you left the placement? Do you think this would have been beneficial to you?

9. How would you describe your relationship with your PO/SW? What would you possibly change about it?

10. What was your involvement in the placement process?
    a. Not given the option to give full input, but because there are few options, when we are pulled, it takes longer to warm up and get to know people

11. What specific tools or skills did you learn while in placement?
    a. Control anger; not talk about others negative, but to be mindful; get to know people first

12. While in placement, who was the most instrumental in helping you return home?

13. Looking back, was placement helpful in your life?
    a. THP-Plus program was great- helped learn responsibility, focus, self-discipline

14. When you were returned home, what resources or services do you think would have been nice to have to make the transition smoother?

15. Is there anything else you can think of that you would like to add?
    a. You need to find good foster parents, because some aren't looking to be a family, but are just about the $$$
    b. Sometimes the FP can be different in front of the SW and they aren't a real support system

Appendix I: Parents Involved with Child Welfare Services Focus Group

Inyo County Health and Human Services
Social Services Division
Focus Group with Biological Parents
for County Child Welfare System Self-Assessment
December 7, 2011

Description of the California Children and Family Services Review process: In 2004, implementation of Assembly Bill 636 brought a new Child Welfare Systems Outcome and Accountability System to California. This review process focuses on measuring outcomes in the areas of safety, permanency, and child and family well-being. Locally, each county collects data and performs a cyclical review process, including a Peer Quality Case Review (PQCR) and a County Self-Assessment, both of which feed into a 5-year System Improvement Plan.

The Inyo County Child Welfare and Juvenile Probation divisions hosted a PQCR in June of this year and are now in the process of conducting a self-assessment of the County Child Welfare system. We are requesting your participation and input regarding the strengths and needs of the County Child Welfare and Juvenile Probation systems that serve children and families.

We are going to ask you to share information about your personal experiences with child welfare and, in some cases, juvenile probation. The information you choose to share will be used in a confidential manner and will help the county improve the services that are currently provided as well as possibly aid in creating new services. There are no right or wrong answers or responses, only helpful information. We are recording this meeting to help us later correctly capture your responses, but you will not be directly identified in connection with the responses you provide in our report.

OUTCOMES

- Children are, first and foremost, protected from abuse and neglect.
- Children are maintained safely in their homes whenever possible and appropriate.
- Children have permanency and stability in their living situations without increasing reentry to foster care.
- The family relationships and connections of the children served by the CWS will be preserved, as appropriate.
- Children receive services adequate to their physical, emotional and mental health needs.
- Children receive services appropriate to their educational needs.
- Families have enhanced capacity to provide for their children's needs.
- Youth emancipating from foster care are prepared to transition to adulthood.

1. What are some of the things County Social Workers have done that helped you during your involvement with the Child Welfare System?
    a. Supportive when trying to reunify- helpful after the children were pulled and going through FR; seemed more supportive after kids came back

2. What are some of the things County Social Workers could have done to help you during your involvement with the Child Welfare System?
    a. More honesty about how system works; heard different stuff from different SW
    b. Lack of clarity from SW; secrecy and ambiguity
    c. Should have been supportive from day 1
    d. Not educating families on how system works
    e. Up front about what services are out there- don't do a roundabout questioning
    f. Lack of respect because not given info on case
    g. Let people know what else is out there besides drug counseling and testing
    h. Seems like favors are given to those families that are known and not new ones
    i. Use charts, graphs diagrams
    j. Be more sociable; we know you have power/control in this situation
    k. Don't be afraid to consult with your supervisor if you don't know answer

3. What ways does/did your Social Worker contact you (face to face, phone calls, other staff, etc.)?
    a. Barely to par contact; they'd come to house to test and give quick update, but specialists are supervising the visit when it should be SW- **if you are going to take my kids away, you should be putting in the effort to put them together**

4. If your child(ren) have been removed from your custody, how often do you receive phone contact with your child? Face to face contact?
    a. Different placements meant different schedules
    b. Placement with family meant there would be more help with getting contact with kids
    c. Would have visits in play room- should clean it. You say my house is unfit but that thing is disgusting
    d. If staff couldn't work breathalyzer then I would lose my visit- how is that fair?
    e. We shouldn't be treated as a case but as a person

5. If the child has siblings, how often do the children receive phone contact? Face to face contact? **n/a for this group as it was 1 child in one home and the other children were removed and stayed together until reunification**

6. Was your child enrolled in school before being involved in the Child Welfare System?
    a. Is he/she attending the same school? **n/a but b/c of age of child**

7. What type of contact does the child have with extended family members, such as aunts, uncles, grandparents, etc.?
    a. Had contact b/c of who child was placed with

8. How often does your Social Worker talk to you about the progress and challenges the child is going through in school, home, after-school, etc.?

9. Can you think of any services or resources that might have helped you avoid being involved with the child welfare system?
    a. It's not about what resources, but knowing what is out there. Jodi at First 5 is great and always has good information.
    b. A Resource book would be really helpful!!!!

10. Do you feel, in general, that you receive enough information and/or documentation about your children when they are involved in the child welfare system? If not, what information and/or documentation would be helpful?
    a. Attorneys were useless- I had to do a lot of self-educating on the legal system, what was going on with my case, and I would have liked to get further with better legal help

11. What can you suggest, if anything, that would make Social Workers more productive?
    a. More social workers- it is hard for them to do what they do when there are a lot of families
    b. More education and training for social workers
    c. If you were up front, there would not be a lot of questions and less defensiveness
    d. Wraparound program- how do you incorporate in CPS
    e. Should be aware of what's going on and being offered in your community
    f. Peer groups with other families from the system- I won't speak for my family, but for other families because wrong is being done.

12. Do you have any other comments of suggestions regarding child welfare services in Inyo County?

AGENDA REQUEST FORM

BOARD OF SUPERVISORS
COUNTY OF INYO

☐ Consent ☐ Departmental ☐ Correspondence Action ☐ Public Hearing
☐ Schedule time for _____ ☐ Closed Session ☐ Informational

For Clerk's Use Only:

AGENDA NUMBER

7

FROM: Public Works Department

FOR THE BOARD MEETING OF: April 17, 2012

SUBJECT: Approval of Standard Agreement with California Department of Parks and Recreation to reimburse County the installation of signage required by Assembly Bill 628.

DEPARTMENTAL RECOMMENDATIONS:

Staff recommends that the Board -

1. Approve Standard Agreement No. C11V0050 (the Contract) between the California Department of Parks and Recreation and Inyo County for the installation of combined-use signage pursuant to Assembly 628 in an amount not to exceed $100,000, and
2. Authorize the Public Works Director to execute the Contract and future documents necessary to implement the Contract contingent upon obtaining appropriate signatures and the adoption of future budgets.

CAO RECOMMENDATION:

SUMMARY DISCUSSION:

Assembly Bill 628 authorized Inyo County to establish combined-use routes open to both regular vehicular traffic and off-highway vehicles. Should the County establish the combined-use routes, AB 628 provides that the State will reimburse the County for the cost of the signage.

State staff from the Off-Highway Motor Vehicle Recreation Division of the California Department of Parks and Recreation indicated to staff that the County would need to enter into a Contract with the State before the next fiscal year. County staff consulted with Caltrans District 9 and Road Department staff and developed a proposed Signage Plan set forth as Exhibit A to the Contract.

Exhibit B to the Contract sets forth an approximate Cost Breakdown. The Signage Plan and Cost Breakdown are based on cost estimates provided by Road Department staff and an estimate of the potential number of signs. County staff is currently drafting the implementation procedures for AB 628, which draft procedures will be presented to the Inyo County Planning Commission on 4/24/12 for review and to recommend approval to the Board of Supervisors. Because the County has not adopted the required procedures, which is necessary for any proposed route, County staff has used its best efforts to estimate the total number of signs. The Contract will expire June 30, 2014.

The Contract allows the County to receive up to $100,000 for this contract. The funding will be reimbursed to the County after it has completed installation of required signage.

ALTERNATIVES:

1) The Board could continue the discussion to the April 24, 2012 meeting. This is not recommended as the California Department of Parks and Recreation has requested the County expedite the processing of this Contract.
2) The Board could propose to change the wording in the Contract. This would require further negotiation with the California Department of Parks and Recreation.
3) The Board could choose to not approve the Contract.

OTHER AGENCY INVOLVEMENT:

1. Implementation of the Signage will require the adoption of the implementation procedures and future designation of combined-use segments by the Inyo County Board of Supervisors, and
2. Any future designation of combined-use routes will require future approval of the California Highway Patrol, and
3. The implementation of signage requires the approval of the California Department of Transportation.

FINANCING:

Time to complete this staff report is funded out of the LTC Overall Work Program.

APPROVALS	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS (Must be reviewed and approved by County Counsel prior to submission to the board clerk.) Approved: Yes Date 4/10/12
AUDITOR/CONTROLLER	ACCOUNTING/FINANCE AND RELATED ITEMS (Must be reviewed and approved by the auditor/controller prior to submission to the board clerk.) Approved: Yes Date 4/10/12
PERSONNEL DIRECTOR	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.) Approved: _____ Date _____

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received) _____ Date: 4-11-12

STATE OF CALIFORNIA

STANDARD AGREEMENT

STD 213 (Rev 06/03)(CA ST PKS, EXCEL 10/20/2004)

AGREEMENT NUMBER
C11V0050
REGISTRATION NUMBER

1. This Agreement is entered into between the State Agency and Contractor named below:

STATE AGENCY'S NAME

Department of Parks and Recreation

CONTRACTOR'S NAME

County of Inyo, Department of Public Works

2. The term of this Agreement is: From written notice to proceed through 6/30/2014

3. The maximum amount of this Agreement is: $ 100,000.00 One Hundred Thousand Dollars and Zero Cents

4. The parties agree to comply with the terms and conditions of the following exhibits which are by this reference made a part of the Agreement.

Exhibit A - Scope of Work	1 page
Exhibit A, Attachment 1 - Detailed Description of Services	4 pages
Exhibit A, Attachment 2 - Sign Location Record	1 page
Exhibit B - Budget Detail and Payment Provisions	1 page
Exhibit B, Attachment 1 - Cost Breakdown	1 page
Exhibit C* - General Terms and Conditions	GTC 610

Check mark one item below as Exhibit D:

☑ Exhibit - D Special Terms and Conditions (Attached hereto as part of this agreement)	2 pages
☐ Exhibit - D* Special Terms and Conditions	
Exhibit E - Additional Provisions	1 page

Items shown with an Asterisk (*), are hereby incorporated by reference and made part of this agreement as if attached hereto. These documents can be viewed at www.ols.dgs.ca.gov/Standard+Language

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

CONTRACTOR

CONTRACTOR'S NAME *(if other than an individual, state whether a corporation, partnership, etc.)*

County of Inyo, Department of Public Works

BY *(Authorized Signature)* ✍ | DATE SIGNED *(Do not type)*

PRINTED NAME AND TITLE OF PERSON SIGNING

ADDRESS
P.O. Drawer Q
Independence, CA 93526

STATE OF CALIFORNIA

AGENCY NAME

Department of Parks and Recreation

BY *(Authorized Signature)* ✍ | DATE SIGNED *(Do not type)*

PRINTED NAME AND TITLE OF PERSON SIGNING

ADDRESS
P.O. Box 942896
Sacramento, California 94296

California Department of General Services Use Only

☐ Exempt per:

☐ CONTRACTOR ☐ STATE AGENCY ☐ DEPT. OF GEN.SER. ☐ CONTROLLER ☐ ACCOUNTING SVS. ☐

EXHIBIT A
(Standard Agreement)

SCOPE OF WORK

1. Contractor agrees to provide to the Department of Parks and Recreation (DPR) signage installation services as described herein:

   Inyo County shall provide all labor, equipment, and tools necessary to perform sign installation services in accordance with specifications outlined in *Exhibit A, Attachment 1* ("Detailed Description of Services") and *Exhibit B, Attachment 1* ("Cost Breakdown"), which are attached hereto as part of this agreement.

2. The services shall be performed at:
   In and around the Independence, Bishop, Big Pine, and Lone Pine areas (including highway crossings).

3. The services shall be provided during:
   Normal working hours, Sunday through Saturday.

4. The project representatives during the term of this Agreement will be:

State Agency:	Department of Parks and Recreation	Contractor:	County of Inyo
Section/Unit:	OHMVR Division	Section/Unit:	Department of Public Works
Attention:	Sixto Fernandez	Attention:	Courtney Smith
Address:	P.O. Box 942896	Address:	P.O. Drawer Q
City/State/Zip Code:	Sacramento, California 94296	City/State/Zip Code:	Independence, CA 93526
Phone:	(916) 324-1572	Phone:	(760) 878-0207
Fax:	(916) 324-1610	Fax:	(760) 878-2001

Exhibit A
Attachment 1

Detailed Description of Services

Background

This contract is being implemented in accordance with Assembly Bill (AB) 628, which was enacted by Governor Brown on October 7, 2011. This bill allows Inyo County to designate combined-use roads, which will be used by Off-Highway Vehicles (OHV) and standard vehicles alike. The combined-use roads will provide OHV access to many services and facilities in the adjoining communities.

§ 38026(d)(1-2) of the California Vehicle Code (CVC) as amended by AB 628 reads:

> A designation of a highway, or a portion thereof...shall become effective upon the erection of appropriate signs...on and along the highway, or portion thereof...The cost of the signs shall be reimbursed from the Off-Highway Vehicle Trust Fund, when appropriated by the Legislature, or by expenditure of funds from a grant or cooperative agreement made pursuant to Section 5090.50 of the Public Resources Code.

The purpose of this contract is to fulfill the signage requirements as outlined above. Upon proper completion of the tasks identified herein, the Off-Highway Motor Vehicle Recreation (OHMVR) Division will provide Inyo County with reimbursement.

Designation

The combined-use designation applies specifically to roads within the Inyo County Maintained Mileage System (MMS). Unless otherwise indicated, all roads and/or dirt-roads identified hereafter are part of the MMS.

Uniform Specifications

In cooperation with the California Department of Transportation (CalTrans), Inyo County shall establish uniform specifications for signs, markers, and traffic control devices. These may include but are not limited to the following:

- Devices to warn of dangerous conditions, obstacles, or hazards.
- Designations of the right-of-way for regular vehicular traffic and OHVs.
- A description of the nature and destination of the off-highway motor vehicle trail.
- Warning signs to inform pedestrians and motorists of the presence of OHVs.

All specifications identified hereafter have been collaboratively developed by both Inyo County and CalTrans. Any and all revisions must be made in the same manner.

Sign Installation & Placement

Both ends of each combined-use segment will be marked with identifying signs (Figure 1).

At controlled and/or busy intersections, warning signs will be installed to alert approaching traffic (Figure 2). These signs will be placed at the edge of the County right-of-way.

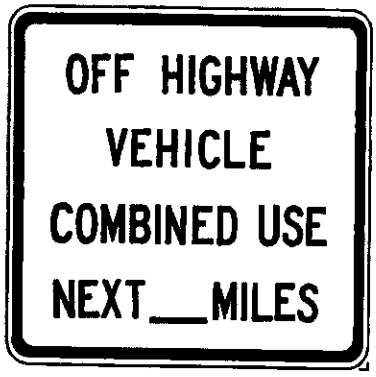


Figure 1. Identifying Sign. Actual signs may vary based on specifications selected.

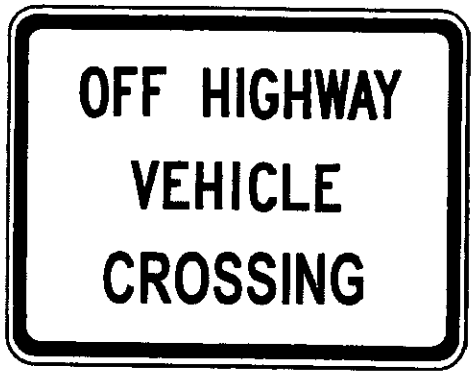


Figure 2. Warning Sign. Actual signs may vary based on specifications selected.

At each crossing of the State Highway system, two 36" x 36" signs will be installed. The California Department of Transportation (CalTrans) will provide all specifications for these signs. If it is necessary to install any signs in the Caltrans right of way, Inyo County will first obtain an encroachment permit.

On dirt roads and roads outside of a developed community, one carsonite post will be placed every mile.

Directional and Reassurance Markers

Directional and reassurance markers will be placed at intersections that necessitate trail-user guidance. Extra care will be taken to assure that these markers are visible from as many directions as possible.

Where the speed limit is greater than 35 mph, directional markers will include the OHV speed limit.

Fiberglass Delineators

In areas away from residential uses, fiberglass delineators will be placed at approximate one-mile intervals. These delineators will be placed at a distance of 6 to 12 feet away from the edge of the traveled way, and at a height of 3 to 4 feet above the road surface.

Fiberglass delineators may also be placed in locations where the trail user may become confused.

Both sides of the fiberglass delineators will include decals. Decals will be placed according to specification outlined in § 5 below, entitled "Placement of Decals".

Placement of Decals

Decals will be placed in the following order:

Directional Markers (Figure 3):

- Eastern Sierra Adventure Trails Logo
- ATV symbol
- Directional Arrow
- Trail Name
- Additional Arrows
- OHV Combined-Use Segment Speed Limit (where speed limit exceeds 35 mph)

Reassurance Markers (Figure 4):

- Eastern Sierra Adventure Trails Logo
- ATV symbol
- Trail Name
- OHV Combined-Use Segment Speed Limit (where speed limit exceeds 35 mph)

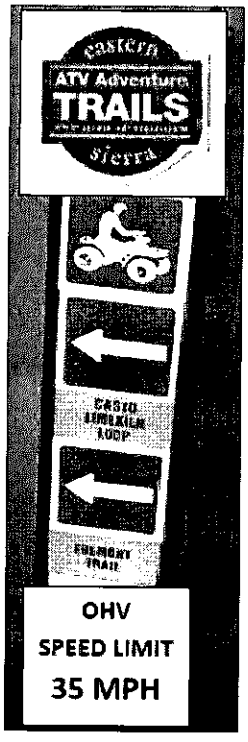


Figure 3. Directional Marker.

Figure 4. Reassurance Marker.

Painting

In areas with residential and/or or commercial uses, the combined-use roads will be painted with yellow dashed lines. This includes the entire length of the route located inside and/or adjacent to areas with residential or commercial uses. Reflective glass beads will be added to make the lines visible under headlights.

Additional Signs

Additional signs may be used to meet the needs of each specific location. Inyo County will work with CalTrans to develop specifications for these signs.

Language

All signage language must refer to OHVs as "Off Highway Vehicles". Signs containing alternate terms (e.g., "Off Road Vehicles", "All Terrain Vehicles", etc.) will not be considered for reimbursement.

Sign Location Record

Inyo County shall complete a *Sign Location Record* (marked "Exhibit A, Attachment 2") for each sign placed within the system. Record must include GPS coordinates, diagrammed location map, and a photo of each sign. In order to receive reimbursement, a copy of each *Sign Location Record* must be submitted to the OHMVR Division.

Exhibit A
Attachment 2

Sign Location Record

Route Name: _____ **Date:**_____

Map Location Number: _____ GPS Location (UTM NAD 83) _____

Prepared by: _____ _____

Location Diagram

Show sign placement and number. Use arrows to show route(s)]

Diagram Sign No. _____ Place Sign Photo Here	Diagram Sign No. _____ Place Sign Photo Here	Diagram Sign No. _____ Place Sign Photo Here

EXHIBIT B
(Standard Agreement)

BUDGET DETAIL AND PAYMENT PROVISIONS

1. **Invoicing and Payment**

   A. For services satisfactorily rendered, and upon receipt and approval of the invoices, the State agrees to compensate the Contractor for actual expenditures incurred in accordance with the rates specified in Cost Breakdown, marked Exhibit B, Attachment 1, which is attached hereto and made a part of this Agreement.

   B. Invoices shall include the Agreement Number and shall be submitted in triplicate not more frequently than monthly in arrears to:

Department of Parks and Recreation
OHMVR Division
Sixto Fernandez
PO Box 942896
Sacramento, California 94296-0001

2. **Budget Contingency Clause**

   A. It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall be of no further force and effect. In this event, the State shall have no liability to pay any funds whatsoever to Contractor or to furnish any other considerations under this Agreement and Contractor shall not be obligated to perform any provisions of this Agreement.

   B. If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, the State shall have the option to either cancel this Agreement with no liability occurring to the State, or offer an agreement amendment to Contractor to reflect the reduced amount.

3. **Prompt Payment Clause**

   Payment will be made in accordance with, and within the time specified in, Government Code Chapter 4.5, commencing with Section 927.

4. **Timely Submission of Final Invoice**

   A. A final undisputed invoice shall be submitted for payment no more than ninety (90) calendar days following expiration or termination date of this Agreement, unless a later or alternate deadline is agreed to in writing by the project representative. Said invoice should be clearly marked "Final Invoice," thus indicating that all payment obligations of the State under this Agreement have ceased and that no further payments are due or outstanding.

   B. The State may, at its discretion, choose not to honor any delinquent final invoice if the Contractor fails to obtain prior written State approval of an alternate final invoice submission deadline. Written State approval shall be sought from the project representative prior to the expiration or termination date of this Agreement.

Exhibit B
Attachment 1
Cost Breakdown

Location	Distance (miles)	Intersections	Highway Crossings	Carsonite Signs	Metal Signs	Paint (miles)	Budget
Independence Area	39.4	17		86	12	1.7	$12,588.94
Bishop Area	83.7	16		182	47	7.1	$39,738.69
Big Pine Area	35	14		130	27	2.1	$22,150.18
Lone Pine Area	39.9	13		90	22	3.3	$18,887.08
Systemwide			14				$6,635.11
						Total Budget	**$100,000.00**

EXHIBIT D — PUBLIC ENTITY
(Standard Agreement)

SPECIAL TERMS AND CONDITIONS

1. **Disputes**

Unless otherwise provided in this agreement, any dispute concerning a question of fact arising under this agreement which cannot be resolved informally shall be decided by the following two-step procedures.

Contractor must provide written notice of the particulars of such disputes to the Project Manager or his/her duly appointed representative. The Project Manager must respond in writing within ten (10) working days of receipt of the written notice of dispute. Should Contractor disagree with the Project Manager's decision, Contractor may appeal to the second level. Pending the decision on appeal, Contractor shall proceed diligently with the performance of this agreement in accordance with the Project Manager's decision. The second level appeal must indicate why the Project Manager's decision is unacceptable, attaching to it Contractor's original statement of the dispute with supporting documents, along with a copy of the Project Manager's response. The second level appeal shall be sent to the Deputy Director of Administrative Services or his/her duly appointed representative. The second level appeal must be filed within fifteen (15) working days of receipt of the Project Manager's decision. Failure to submit an appeal within the period specified shall constitute a waiver of all such right to an adjustment of this agreement. The Deputy Director or designee shall meet with Contractor to review the issues raised. A written decision signed by the Deputy Director or designee shall be returned to Contractor within fifteen (15) working days of the receipt of the appeal.

2. **Termination for Convenience**

State reserves the right to terminate this agreement subject to 30 days written notice to Contractor. Contractor may submit a written request to terminate this agreement only if State should substantially fail to perform its responsibilities as provided herein.

3. **Force Majeure**

Except for defaults of subcontractors, neither party shall be responsible for delays or failures in performance resulting from acts beyond the control of the offending party. Such acts shall include but shall not be limited to acts of God, fire, flood, earthquake, other natural disaster, nuclear accident, strike, lockout, riot, freight embargo, public regulated utility, or governmental statutes or regulations superimposed after the fact. If a delay or failure in performance by Contractor arises out of a default of its subcontractor, and if such default of its subcontractor, arises out of causes beyond the control of both Contractor and subcontractor, and without the fault or negligence of either of them, Contractor shall not be liable for damages of such delay or failure, unless the supplies or services to be furnished by subcontractor were obtainable from other sources in sufficient time to permit Contractor to meet the required performance schedule.

4. **Forced, Convict, and Indentured Labor**

No foreign-made equipment, materials, or supplies furnished to State pursuant to this agreement may be produced in whole or in part by forced labor, convict labor, or indentured labor. By submitting a bid to State or accepting a purchase order, Contractor agrees to comply with this provision of this agreement.

5. Potential Subcontractors

Nothing contained in this agreement or otherwise, shall create any contractual relation between State and any subcontractors, and no subcontract shall relieve Contractor of its responsibilities and obligations hereunder. Contractor agrees to be as fully responsible to State for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by Contractor. Contractor's obligation to pay its subcontractors is an independent obligation from State's obligation to make payments to Contractor. As a result, State shall have no obligation to pay or to enforce the payment of any moneys to any subcontractor.

6. Priority Hiring Considerations for Contracts with a Value of $200,000

If the resulting agreement will have a total value of $200,000 or more, Contractor is hereby advised that it will be obligated to give priority consideration in filling vacancies in positions funded by the resulting agreement to qualified recipients of aid under Welfare and Institutions Code Section 11200. This requirement shall not interfere with or require a violation of a collective bargaining agreement, a federal affirmative action obligation for hiring disabled veterans of the Vietnam era, or nondiscrimination compliance laws of California and does not require the employment of unqualified recipients of aid.

7. Intellectual Property

Any works developed during and/or pursuant to this agreement by Contractor, including all related copyrights and other proprietary rights therein, as may now exist and/or which hereafter come into existence, shall belong to State upon creation, and shall continue in State's exclusive ownership upon termination of this agreement. Contractor further intends and agrees to assign to State all right, title and interest in and to such materials as well as all related copyrights and other proprietary rights therein.

Contractor agrees to cooperate with State and to execute any document or documents that may be found to be necessary to give the foregoing provisions full force and effect, including but not limited to, an assignment of copyright.

Contractor agrees not to incorporate into or make the works developed, dependent upon any original works of authorship or Intellectual Property Rights of third parties without first (a) obtaining State's prior written permission, and (b) granting to or obtaining for State a nonexclusive, royalty-free, paid-up, irrevocable, perpetual, world-wide license, to use, reproduce, sell, modify, publicly and privately display and distribute, for any purpose whatsoever, any such prior works.

8. Contractor's Duties, Obligations and Rights

Contractor is hereby apprised that California Public Contract Code Section 10335 through 10381 are applicable relative to Contractor's duties, obligations, and rights in performing the agreement.

EXHIBIT E — PUBLIC ENTITY
(Standard Agreement)

ADDITIONAL PROVISIONS

Student/Graduate Student Assistants

1. Notwithstanding any other provision of law to the contrary, no student employed pursuant to this agreement will accrue State civil service status nor be employed for more than 194 days in the 365 days following the initial date of employment. Students will not cause the displacement of civil service employees. Students are not to perform work that would normally be assigned to permanent, full-time State civil service employees, and due consideration shall be given to affirmative action in and when hiring students.

2. Students may be permitted by State to operate State owned vehicles or equipment when required in the normal course of carrying out their work assignments under this agreement, provided that the following occurs:

   a. Students who operate vehicles on official business must have a valid driver's license and a good driving record.

   b. A copy of the student's driver records must be obtained from Department of Motor Vehicle prior to commencement of work.

   c. Students under the age of 18 may not operate State vehicles under any circumstances.

   d. Students who operate their private vehicle on official business must complete a STD. 261, Authorization to Use Privately Owned Vehicles on State Business.

   e. Students who operate their own or State vehicles on official business must attend and successfully complete an approved defensive driver training course at least once every four years. Said course must be completed before student will be allowed to drive on official business.

   f. Students must provide written proof of insurance.

3. Any/all students hired under the auspices of this agreement may be subject to a background check at the discretion of State.

4. Refusing to cooperate with the request(s) as noted above can be grounds for immediate dismissal from all assignments within State. In addition, State, at its sole discretion, may terminate any student assistant from his/her work assignment if State is displeased with any aspect of the student's work or work-related conduct.

5. It is the responsibility of State to instruct and inform all students of the aforementioned conditions at the time of hire.

AGENDA REQUEST FORM

BOARD OF SUPERVISORS
COUNTY OF INYO

For Clerk's Use Only:
AGENDA NUMBER
8

☒Consent ☐ Departmental ☐Correspondence Action ☐ Public Hearing

☐ Scheduled Time for ☐ Closed Session ☐ Informational

FROM: Sheriff's Department

FOR THE BOARD MEETING OF: April 17, 2012

SUBJECT: Request approval to purchase Universal Forensic Extraction Device

DEPARTMENTAL RECOMMENDATION:

Request Board: (A) declare Cellebrite USA Corp. as a sole source provider, and authorize the purchase of one Universal Forensic Extraction Device (UFED) including UFED kit and accessories, and one UFED "Ultimate" add on module software per quote in the amount of $8,583.99 including shipping, plus tax to be paid to the State of California in the amount of $658.67.

SUMMARY DISCUSSION: At Mid-Year, we presented to the Board a budget for CalMet 11-12, after receiving notification of award. Part of what was budgeted was this Universal Forensic Extraction Device which INET will use in assisting them with their investigations by being able to extract information from mobile devices. This extraction device can also be used for Sheriff's Investigations and many other areas. Cellebrite's UFED is the most complete system for mobile forensics. Cellibrite is the only supplier we could find in the USA.

ALTERNATIVES:

Your Board could choose not to approve this purchase, but this is not recommended.

OTHER AGENCY INVOLVEMENT:

Purchasing
Auditor's office

FINANCING:

This item is included in the Board Approved Budget 671411 (CalMet Task Force 11-12), Object Code 5650 (Equipment).

APPROVALS	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS *(Must be reviewed and approved by county counsel prior to submission to the board clerk.)* Approved: ~ Date 4.6.12
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS (M*ust be reviewed and approved by the auditor-controller prior to submission to the board clerk.)* Approved: Date 4/11/12
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.) Approved: Date

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received) Date: 4/11/12

Sole Source Justification Form

Sole Source: Is awarded for a commodity or services, which can only be purchased from one supplier, usually because of its specific technological requirements, availability or unique patented manufacture. The lack of planning is not an overriding circumstance.

This is a sole source because:

☒ There is only one known source because:

- ☒ This is a sole provider of a licensed, copyrighted, or patented good or service.
- ☐ This is a sole provider of items compatible with existing equipment or systems.
- ☐ This is a sole provider of factory-authorized warranty service.
- ☐ This is a sole provider of goods or services that perform the intended function or meet the specialized needs of the County (Please detail in an attachment).

☐ One source is the only practical way to respond to overriding circumstances that make compliance with competitive procedures under the Authority's policies not in the best interest of the Authority (Please detail in an attachment).

Please attach a memorandum to explain why the goods or services are not available elsewhere, include names and phone numbers of firms contacted.

Other brands/manufacturers considered. **We have searched on the Internet and have only found this one supplier, with the exception of one in France.**

- Other suppliers considered
- Other (i.e., emergency)

Describe the item or service, its function and the total cost estimate (if practical, separate labor and materials) in the space below or in a separate attached label: Description of Item or Service. **This device is used to download information from cellular phones. It can get deleted information, blocked information, etc. This device assists with investigations. The cost is 8,583.99, plus $665.26 in taxes for a total cost of $9,249.25.**	
DEPARTMENT CONTACT PERSON & TITLE Kris Porter, INET	
DEPARTMENT NAME Sheriff's Department	PHONE 760.872.4052
REQUESTED SUPPLIER/CONSULTANT NAME Cellebrite USA, Corp	SUPPLIER CONTACT PERSON Keith
SUPPLIER ADDRESS 266 Harristown Rd. STE. 105 Glen Rock, NJ 07452	SUPPLIER CONTACT'S PHONE NUMBER 201.848.8552

The County's Purchasing Policy Manual Section III.(E), Exceptions to the Competitive Process/Sole Source and Section IV.(I), Sole Source Requests for Independent Contractors, describe when sole sourcing is permitted. By signing below, Requestor acknowledges that he/she has read and understands the County's policy on sole source procurements.

Signature of Requestor — 3-13-12 *Date*

President/CEO Approval — 03-13-2012 *Date*

Cellebrite USA, Corp.
266 Harristown Rd.
Ste. 105
Glen Rock. N.J 07452

Tel.: 201-848-8552
Fax: 201-848-9982
Tax ID#: 22-3770059

Quotation

Quote Number: m18705

Quote Date: Mar 5, 2012

Quoted to:
Inyo Narcotics Enforcement Team
P.O. Box 1392
California

Quote Ship to: 022700
Inyo Narcotics Enforcement Team
P.O. Box 1392
California
3 ship

Contact: Kris Porter
Phone #: 760-872-4052

Customer ID	Good Thru	Payment Terms	Sales Rep
INYONARCOTICS-1392	7/4/12	Net 30 Days	KEITH

Quantity	Item	Description	Unit Price	Extension
1.00	UFED	Universal Forensic Extraction Device (UFED)	4,499.00	$ 4,499.00
1.00	UFED KIT	UFED Kit		
1.00	2ALL	ALL CABLES ARE INCLUDED		
1.00	8PS1000ma	Power Supply 12v 1000ma		
1.00	CD-UFEDMANUAL	CD-UFED Manual,Utility,PBEdi		
1.00	xORGANIZER-UFED	Organizer for UFED		
1.00	FOREN-BLUETOOTH	Bluetooth Adapterfor Forensic		
1.00	FOREN-CAR	Car Adaptor for Forensic		
1.00	FOREN-USB	USB Flash Drive for Forensic		
1.00	UFED-SIM	UFED SIM Access Card		
1.00	D UFED	First year Logical software updates, live tech support, warranty & new cables are included free of charge. The second year and thereafter will be:		
1.00	D-999	$999		
1.00	UFED-ULTADDON	UFED "ULTIMATE" Add-On Module	3,999.99	$ 3,999.99
1.00	D-PHY	First year Physical software updates, live tech support, warranty & new cables are		

Subtotal	Continued
S&H Amount	
Sales Tax	Continued
Total	Continued

Please include the following info on your PO for the Cellebrite UFED purchase

1. **Please include the ORIGINAL QUOTE NUMBER (For example - M777) on your PO**
2. **CONTACT NAME & NUMBER of individual purchasing and bill to address**
3. **E-MAIL ADDRESS of END USER for monthly software updates as this is critical for future functionality**

5650 671911 19491 1003325

Cellebrite USA, Corp.
266 Harristown Rd.
Ste. 105
Glen Rock. N.J 07452

Tel.: 201-848-8552
Fax: 201-848-9982
Tax ID#: 22-3770059

Quotation

Quote Number:
m18705

Quote Date:
Mar 5, 2012

Quoted to:
Inyo Narcotics Enforcement Team
P.O. Box 1392
California

Quote Ship to:
Inyo Narcotics Enforcement Team
P.O. Box 1392
California

Contact: Kris Porter
Phone #: 760-872-4052

Customer ID	Good Thru	Payment Terms	Sales Rep
INYONARCOTICS-1392	7/4/12	Net 30 Days	KEITH

Quantity	Item	Description	Unit Price	Extension
		included free of charge. The second year and thereafter will be:		
1.00	D-1999	$1,999		
1.00	SHIPPING-Forensic	Shipping Charges	85.00	$ 85.00

Please include the following info on your PO for the Cellebrite UFED purchase

1. **Please include the ORIGINAL QUOTE NUMBER (For example - M777) on your PO**
2. **CONTACT NAME & NUMBER of individual purchasing and bill to address**
3. **E-MAIL ADDRESS of END USER for monthly software updates as this is critical for future functionality**

Subtotal	$ 8,583.99
S&H Amount	
Sales Tax	
Total	$ 8,583.99

For Clerks Use Only

AGENDA NUMBER

9

AGENDA REQUEST FORM

BOARD OF SUPERVISORS
COUNTY OF INYO

[X] Consent [] Departmental []Correspondence Action [] Public Hearing

[] Scheduled Time for []Closed Session [] Informational

FROM: Sheriff's Department

FOR THE BOARD MEETING OF: **April 17, 2012**

SUBJECT: Approval of American Security Group Maintenance Agreement

DEPARTMENTAL RECOMMENDATION: Request Board declare American Security Group as a sole source provider, and approve a three-year contract between the County of Inyo and American Security Group for the provision of maintenance of security surveillance system equipment, for the period of July 1, 2012 through June 30, 2015 in the amount of $69,390.00, contingent upon obtaining appropriate signatures and contingent upon adoption of future year budgets.

CAO RECOMMENDATION:

SUMMARY DISCUSSION: American Security Group installed a new state of the art surveillance system in the Jail and Sheriff's Administration facilities. The system is robust, comprised of 92 high definition cameras; high definition monitors located the jail and dispatch, and operated by a proprietary software and server system. As the system is proprietary, only American Security Group can provide maintenance and technical support. The current contract was approved on October 25, 2011, and expires on June 30th, 2012.

ALTERNATIVES: There are no practical alternatives available.

OTHER AGENCY INVOLVEMENT:
County Counsel
Auditor's Office
Risk Manager

FINANCING: Funding will be budgeted in Budget Unit 022706, Jail Security Project, Object Code 5265, Professional & Special Services.

APPROVALS	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS *(Must be reviewed and approved by county counsel prior to submission to the board clerk.)* Approved: — Date 4.4.12
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS (*Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)* Approved: Yes Date 4/9/12
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.) Approved:_____ Date_____

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received) Date: 4-11-12

Sole Source Justification Form

Sole Source: Is awarded for a commodity or services, which can only be purchased from one supplier, usually because of its specific technological requirements, availability or unique patented manufacture. The lack of planning is not an overriding circumstance.

This is a sole source because:

☒ There is only one known source because:

- ☒ This is a sole provider of a licensed, copyrighted, or patented good or service.
- ☐ This is a sole provider of items compatible with existing equipment or systems.
- ☐ This is a sole provider of factory-authorized warranty service.
- ☐ This is a sole provider of goods or services that perform the intended function or meet the specialized needs of the County (Please detail in an attachment).

☐ One source is the only practical way to respond to overriding circumstances that make compliance with competitive procedures under the Authority's policies not in the best interest of the Authority (Please detail in an attachment).

Please attach a memorandum to explain why the goods or services are not available elsewhere, include names and phone numbers of firms contacted.

- Other brands/manufacturers considered
- Other suppliers considered
- Other (i.e., emergency)

Describe the item or service, its function and the total cost estimate (if practical, separate labor and materials) in the space below or in a separate attached label: Description of Item or Service. American Security Group installed the surveillance system in the Jail & sheriff's Administration facility, this system is proprietary. Current contract expires on June 30th.	
DEPARTMENT CONTACT PERSON & TITLE Lt. Randy Geiger	
DEPARTMENT NAME Sheriff	PHONE Ext. 0325
REQUESTED SUPPLIER/CONSULTANT NAME American Security Group	SUPPLIER CONTACT PERSON Tyler Sayles
SUPPLIER ADDRESS P.O. Box 48 Vista, CA 92085	SUPPLIER CONTACT'S PHONE NUMBER 760.727-4020

The County's Purchasing Policy Manual Section III.(E), Exceptions to the Competitive Process/Sole Source and Section IV.(I), Sole Source Requests for Independent Contractors, describe when sole sourcing is permitted. By signing below, Requestor acknowledges that he/she has read and understands the County's policy on sole source procurements.

Lt. — *Signature of Requestor*

04/04/2012 — *Date*

President/CEO Approval

Date

AGREEMENT BETWEEN COUNTY OF INYO
AND AMERICAN SECURITY GROUP
FOR THE PROVISION OF Maintenance of Security Surveillance System Equipment **SERVICES**

INTRODUCTION

WHEREAS, the County of Inyo (hereinafter referred to as "County") may have the need for the Maint.of Sec. Surveillance Equip services of AMERICAN SECURITY GROUP of Vista, CA (hereinafter referred to as "Contractor"), and in consideration of the mutual promises, covenants, terms, and conditions hereinafter contained, the parties hereby agree as follows:

TERMS AND CONDITIONS

1. SCOPE OF WORK.

The Contractor shall furnish to the County, upon its request, those services and work set forth in Attachment **A**, attached hereto and by reference incorporated herein. Requests by the County to the Contractor to perform under this Agreement will be made by Lt. Randy Geiger, whose title is:Administrative Lieutenant. Requests to the Contractor for work or services to be performed under this Agreement will be based upon the County's need for such services. The County makes no guarantee or warranty, of any nature, that any minimum level or amount of services or work will be requested of the Contractor by the County under this Agreement. County by this Agreement incurs no obligation or requirement to request from Contractor the performance of any services or work at all, even if County should have some need for such services or work during the term of this Agreement.

Services and work provided by the Contractor at the County's request under this Agreement will be performed in a manner consistent with the requirements and standards established by applicable federal, state, county, and County laws, ordinances, regulations, and resolutions. Such laws, ordinances, regulations, and resolutions include, but are not limited to, those which are referred to in this Agreement.

2. TERM.

The term of this Agreement shall be from July 1, 2012 to June 30, 2015 unless sooner terminated as provided below.

3. CONSIDERATION.

A. Compensation. County shall pay to Contractor in accordance with the Schedule of Fees (set forth as Attachment **B**) for the services and work described in Attachment A which are performed by Contractor at the County's request.

B. Travel and per diem. Contractor will not be paid or reimbursed for travel expenses or per diem which Contractor incurs in providing services and work requested by County under this Agreement.

C. No additional consideration. Except as expressly provided in this Agreement, Contractor shall not be entitled to, nor receive, from County, any additional consideration, compensation, salary, wages, or other type of remuneration for services rendered under this Agreement. Specifically, Contractor shall not be entitled, by virtue of this Agreement, to consideration in the form of overtime, health insurance benefits, retirement benefits, disability retirement benefits, sick leave, vacation time, paid holidays, or other paid leaves of absence of any type or kind whatsoever.

D. Limit upon amount payable under Agreement. The total sum of all payments made by the County to Contractor for services and work performed under this Agreement shall not exceed **********$69,390.00********** Dollars (hereinafter referred to as "contract limit"). County expressly reserves the right to deny any payment or reimbursement requested by Contractor for services or work performed which is in excess of the contract limit.

E. Billing and payment. Contractor shall submit to the County, once a month, an itemized statement of all services and work described in attachment A, which were done at the County's request. This statement will be submitted to the County not later than the fifth (5th) day of the month. The statement to be submitted will cover the period from the first (1st) day of the preceding month through and including the last day of the preceding month. This statement will identify the date on which the services and work were performed and describe the nature of the services and work which were performed on each day. Upon timely receipt of the statement by the fifth (5th) day of the month, County shall make payment to Contractor on the last day of the month.

F. Federal and State taxes.

(1) Except as provided in subparagraph (2) below, County will not withhold any federal or state income taxes or social security from any payments made by County to Contractor under the terms and conditions of this Agreement.

(2) County will withhold California State income taxes from payments made under this Agreement to non-California resident independent contractors when it is anticipated that total annual payments to Contractor under this Agreement will exceed one thousand four hundred ninety nine dollars ($1,499.00).

(3) Except as set forth above, County has no obligation to withhold any taxes or payments from sums paid by County to Contractor under this Agreement. Payment of all taxes and other assessments on such sums is the sole responsibility of Contractor. County has no responsibility or liability for payment of Contractor's taxes or assessments.

(4) The total amounts paid by County to Contractor, and taxes withheld from payments to non-California residents, if any, will be reported annually to the Internal Revenue Service and the California State Franchise Tax Board. To facilitate this reporting, Contractor shall complete and submit to the County an Internal Revenue Service (IRS) Form W-9, attached hereto as Attachment **C**, upon executing this Agreement.

4. WORK SCHEDULE.

Contractor's obligation is to perform, in a timely manner, those services and work identified in Attachment A which are requested by the County. It is understood by Contractor that the performance of these services and work will require a varied schedule. Contractor will arrange his/her own schedule, but will coordinate with County to insure that all services and work requested by County under this Agreement will be performed within the time frame set forth by County.

5. REQUIRED LICENSES, CERTIFICATES, AND PERMITS.

A. Any licenses, certificates, or permits required by the federal, state, county, municipal governments, for contractor to provide the services and work described in Attachment **A** must be procured by Contractor and be valid at the time Contractor enters into this Agreement. Further, during the term of this Agreement, Contractor must maintain such licenses, certificates, and permits in full force and effect. Licenses, certificates, and permits may include, but are not limited to, driver's licenses, professional

licenses or certificates, and business licenses. Such licenses, certificates, and permits will be procured and maintained in force by Contractor at no expense to the County. Contractor will provide County, upon execution of this Agreement, with evidence of current and valid licenses, certificates and permits which are required to perform the services identified in attachment A. Where there is a dispute between Contractor and County as to what licenses, certificates, and permits are required to perform the services identified in Attachment A, County reserves the right to make such determinations for purposes of this Agreement.

B. Contractor warrants that it is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in covered transactions by any federal department or agency. Contractor also warrants that it is not suspended or debarred from receiving federal funds as listed in the List of Parties Excluded from Federal Procurement or Non-procurement Programs issued by the General Services Administration available at: http://www.epls.gov.

6. OFFICE SPACE, SUPPLIES, EQUIPMENT, ETC.

Contractor shall provide such office space, supplies, equipment, vehicles, reference materials, and telephone service as is necessary for Contractor to provide the services identified in Attachment A to this Agreement. County is not obligated to reimburse or pay Contractor, for any expense or cost incurred by Contractor in procuring or maintaining such items. Responsibility for the costs and expenses incurred by Contractor in providing and maintaining such items is the sole responsibility and obligation of Contractor.

7. COUNTY PROPERTY.

A. Personal Property of County. Any personal property such as, but not limited to, protective or safety devices, badges, identification cards, keys, etc. provided to Contractor by County pursuant to this Agreement are, and at the termination of this Agreement remain, the sole and exclusive property of County. Contractor will use reasonable care to protect, safeguard and maintain such items while they are in Contractor's possession. Contractor will be financially responsible for any loss or damage to such items, partial or total, which is the result of Contractor's negligence.

B. Products of Contractor's Work and Services. Any and all compositions, publications, plans, designs, specifications, blueprints, maps, formulas, processes, photographs, slides, video tapes, computer programs, computer disks, computer tapes, memory chips, soundtracks, audio recordings, films, audio-visual presentations, exhibits, reports, studies, works of art, inventions, patents, trademarks, copyrights, or intellectual properties of any kind which are created, produced, assembled, compiled by, or are the result, product, or manifestation of, Contractor's services or work under this Agreement are, and at the termination of this Agreement remain, the sole and exclusive property of the County. At the termination of the Agreement, Contractor will convey possession and title to all such properties to County.

8. WORKERS' COMPENSATION.

Contractor shall provide Statutory California Worker's Compensation coverage and Employer's Liability coverage for not less than $1,000,000 per occurrence for all employees engaged in services or operations under this Agreement. The County of Inyo, its agents, officers and employees shall be named as additional insured or a waiver of subrogation shall be provided.

9. INSURANCE.

For the duration of this Agreement Contractor shall procure and maintain insurance of the scope and amount specified in Attachment D and with the provisions specified in that attachment.

10. STATUS OF CONTRACTOR.

All acts of Contractor, its agents, officers, and employees, relating to the performance of this Agreement, shall be performed as independent contractors, and not as agents, officers, or employees of County. Contractor, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of County. Except as expressly provided in Attachment A, Contractor has no authority or responsibility to exercise any rights or power vested in the County. No agent, officer, or employee of the County is to be considered an employee of Contractor. It is understood by both Contractor and County that this Agreement shall not under any circumstances be construed or considered to create an employer-employee relationship or a joint venture. As an independent contractor:

A. Contractor shall determine the method, details, and means of performing the work and services to be provided by Contractor under this Agreement.

B. Contractor shall be responsible to County only for the requirements and results specified in this Agreement, and except as expressly provided in this Agreement, shall not be subjected to County's control with respect to the physical action or activities of Contractor in fulfillment of this Agreement.

C. Contractor, its agents, officers, and employees are, and at all times during the term of this Agreement shall, represent and conduct themselves as independent contractors, and not as employees of County.

11. DEFENSE AND INDEMNIFICATION.

Contractor shall defend, indemnify, and hold harmless County, its agents, officers, and employees from and against any and all claims, damages, losses, judgments, liabilities, expenses, and other costs, including litigation costs and attorney's fees, arising out of, resulting from, or in connection with, the performance of this Agreement by Contractor, or Contractor's agents, officers, or employees, or the failure of Contractor, or Contractor's agents, officers, or employees to comply with any of its obligations contained in this Agreement. Contractor's obligation to defend, indemnify, and hold the County, its agents, officers, and employees harmless applies to any actual or alleged personal injury, death, or damage or destruction to tangible or intangible property, including the loss of use. Contractor's obligation under this paragraph extends to any claim, damage, loss, liability, expense, or other costs which is caused in whole or in part by any act or omission of the Contractor, its agents, employees, supplier, or any one directly or indirectly employed by any of them, or anyone for whose acts or omissions any of them may be liable.

Contractor's obligation to defend, indemnify, and hold the County, its agents, officers, and employees harmless under the provisions of this paragraph is not limited to, or restricted by, any requirement in this Agreement for Contractor to procure and maintain a policy of insurance.

To the extent permitted by law, County shall defend, indemnify, and hold harmless Contractor, its agents, officers, and employees from and against all claims, damages, losses, judgments, liabilities, expenses, and other costs, including litigation costs and attorney's fees, arising out of, or resulting from, the active negligence, or wrongful acts of County, its officers, or employees.

12. RECORDS AND AUDIT.

A. Records. Contractor shall prepare and maintain all records required by the various provisions of this Agreement, federal, state, county, municipal, ordinances, regulations, and directions. Contractor shall maintain these records for a minimum of four (4) years from the termination or completion of this Agreement. Contractor may fulfill its obligation to maintain records as required by this paragraph by substitute photographs, microphotographs, or other authentic reproduction of such records.

B. Inspections and Audits. Any authorized representative of County shall have access to any books, documents, papers, records, including, but not limited to, financial records of Contractor, which County determines to be pertinent to this Agreement, for the purposes of making audit, evaluation, examination, excerpts, and transcripts during the period such records are to be maintained by Contractor. Further, County has the right, at all reasonable times, to audit, inspect, or otherwise evaluate the work performed or being performed under this Agreement.

13. NONDISCRIMINATION.

During the performance of this Agreement, Contractor, its agents, officers, and employees shall not unlawfully discriminate in violation of any federal, state, or local law, against any employee, or applicant for employment, or person receiving services under this Agreement, because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age, or sex. Contractor and its agents, officers, and employees shall comply with the provisions of the Fair Employment and Housing Act (Government Code section 12900, et seq.), and the applicable regulations promulgated thereunder in the California Code of Regulations. Contractor shall also abide by the Federal Civil Rights Act of 1964 (P.L. 88-352) and all amendments thereto, and all administrative rules and regulations issued pursuant to said act.

14. CANCELLATION.

This Agreement may be canceled by County without cause, and at will, for any reason by giving to Contractor thirty (30) days written notice of such intent to cancel. Contractor may cancel this Agreement without cause, and at will, for any reason whatsoever by giving thirty (30) days written notice of such intent to cancel to County.

15. ASSIGNMENT.

This is an agreement for the services of Contractor. County has relied upon the skills, knowledge, experience, and training of Contractor as an inducement to enter into this Agreement. Contractor shall not assign or subcontract this Agreement, or any part of it, without the express written consent of County. Further, Contractor shall not assign any monies due or to become due under this Agreement without the prior written consent of County.

16. DEFAULT.

If the Contractor abandons the work, or fails to proceed with the work and services requested by County in a timely manner, or fails in any way as required to conduct the work and services as required by County, County may declare the Contractor in default and terminate this Agreement upon five (5) days written notice to Contractor. Upon such termination by default, County will pay to Contractor all amounts owing to Contractor for services and work satisfactorily performed to the date of termination.

17. WAIVER OF DEFAULT.

Waiver of any default by either party to this Agreement shall not be deemed to be waiver of any subsequent default. Waiver or breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach, and shall not be construed to be a modification of the terms of this Agreement unless this Agreement is modified as provided in paragraph twenty-four (24) below.

18. CONFIDENTIALITY.

Contractor agrees to comply with the various provisions of the federal, state, and county laws, regulations, and ordinances providing that information and records kept, maintained, or accessible by

Contractor in the course of providing services and work under this Agreement, shall be privileged, restricted, or confidential. Contractor agrees to keep confidential all such information and records. Disclosure of such confidential, privileged, or protected information shall be made by Contractor only with the express written consent of the County.

19. CONFLICTS.

Contractor agrees that it has no interest, and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of the work and services under this Agreement.

20. POST AGREEMENT COVENANT.

Contractor agrees not to use any confidential, protected, or privileged information which is gained from the County in the course of providing services and work under this Agreement, for any personal benefit, gain, or enhancement. Further, Contractor agrees for a period of two years after the termination of this Agreement, not to seek or accept any employment with any entity, association, corporation, or person who, during the term of this Agreement, has had an adverse or conflicting interest with the County, or who has been an adverse party in litigation with the County, and concerning such, Contractor by virtue of this Agreement has gained access to the County's confidential, privileged, protected, or proprietary information.

21. SEVERABILITY.

If any portion of this Agreement or application thereof to any person or circumstance shall be declared invalid by a court of competent jurisdiction, or if it is found in contravention of any federal, state, or county statute, ordinance, or regulation, the remaining provisions of this Agreement, or the application thereof, shall not be invalidated thereby, and shall remain in full force and effect to the extent that the provisions of this Agreement are severable.

22. FUNDING LIMITATION.

The ability of County to enter this Agreement is based upon available funding from various sources. In the event that such funding fails, is reduced, or is modified, from one or more sources, County has the option to cancel, reduce, or modify this Agreement, or any of its terms within ten (10) days of its notifying Contractor of the cancellation, reduction, or modification of available funding. Any reduction or modification of this Agreement made pursuant to this provision must comply with the requirements of paragraph twenty-four (24) (Amendment).

23. ATTORNEY'S FEES.

If either of the parties hereto brings an action or proceeding against the other, including, but not limited to, an action to enforce or declare the cancellation, termination, or revision of the Agreement, the prevailing party in such action or proceeding shall be entitled to receive from the other party all reasonable attorney's fees and costs incurred in connection therewith.

24. AMENDMENT.

This Agreement may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties hereto, if such amendment or change is in written form and executed with the same formalities as this Agreement, and attached to the original Agreement to maintain continuity.

25. NOTICE.

Any notice, communication, amendments, additions, or deletions to this Agreement, including change of address of either party during the terms of this Agreement, which Contractor or County shall be required, or may desire, to make, shall be in writing and may be personally served, or sent by prepaid first class mail to, the respective parties as follows:

County of Inyo	
Sheriff's Office	Department
P.O. Drawer S	Street
Independence, CA 93526	City and State

Contractor:	
AMERICAN SECURITY GROUP	Name
P.O. Box 48	Street
Vista, CA 92085	City and State

26. ENTIRE AGREEMENT.

This Agreement contains the entire agreement of the parties, and no representations, inducements, promises, or agreements otherwise between the parties not embodied herein or incorporated herein by reference, shall be of any force or effect. Further, no term or provision hereof may be changed, waived, discharged, or terminated, unless the same be in writing executed by the parties hereto.

//// ////

AGREEMENT BETWEEN COUNTY OF INYO
AND AMERICAN SECURITY GROUP
FOR THE PROVISION OF Maintenance of Security Surveillance System Equipment **SERVICES**

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS THIS _____ DAY OF _____, _____.

COUNTY OF INYO

By: _____

Dated: _____

CONTRACTOR

By: _____
Signature

ANTHONY SPARKS
Print or Type

Dated: 3/27/2012

APPROVED AS TO FORM AND LEGALITY:

_____
County Counsel

APPROVED AS TO ACCOUNTING FORM:

_____
County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:

_____
Personnel Services

APPROVED AS TO INSURANCE REQUIREMENTS:

_____
County Risk Manager

ATTACHMENT A

AGREEMENT BETWEEN COUNTY OF INYO
AND AMERICAN SECURITY GROUP
FOR THE PROVISION OF Maintenance of Security Surveillance System Equipment **SERVICES**

TERM:

FROM: July 1, 2012 **TO:** June 30, 2015

SCOPE OF WORK:

Video camera service and support for Jail/Administrative Camera System per American Security Group proposal #1006487(attached)

AMERICAN SECURITY GROUP
The eye of the eagle

Proposal

Date	Proposal #
2/29/2012	1006487

Customer	Ship To
Inyo Country Sheriff's Facility PO BOX S 550 S Clay St Independence, CA 93526	Inyo Country Sheriff's 550 S Clay St Independence, CA 93526

Qty	Description
	Inyo County Sheriff's Dept Support and Service Agreement (for fiscal year 7/1/2012- 6/30/2015)
	IP Video System Service & Support
94	IP Video Camera Service & Support
12	IP Video Network Equipment Service & Support
3	IP Video Server Service & Support
180	IP Video Storage Device Service & Support
1	IP Video System Service Plan (Base)
	Access Control System Service and Support Agreement
1	Access Control System Service Plan (Base)
6	Access Control Systems Technical Support
4	Access Control Quarterly Inspections & Training (per quarter)
1	Access Control Server Service and Support
	SERVICE / EXTENDED WARRANTY PLANS: American Security Group offers additional protection of your security system investment through enrollment in our Service & Support Agreement and Extended Warranty Plans. Please contact your sales executive for a complete list of services covered with each service plan. This Service & Support Agreement does not include the cost of replacement parts and is limited to support services offered via the following means: network connection, telephone, and/or quarterly service visits for preventative maintenance of the installed equipment. An Extended Warranty Agreement includes costs associated with replacement parts or incidentals. WARRANTY: American Security Group will warranty its installation to be free of defects in material and workmanship for a period of one year. All equipment carries its full manufacturer's warranty. American Security Group will observe due diligence installing equipment, cable and wire and other items inherent with this project. However, American Security Group cannot be held responsible for damage to ceiling panels, trim, carpet, floor coverings, or other items involved with this installation. The term of the contract from July 1st, 2012 to June 30th, 2015. billing will commence on a quarterly basis at a rate of $5,782.50 per quarter. This agreement will automatically renew unless American Security Group receives a written request for cancellation 30 days prior to the final billing cycle. Limit upon amount payable to reflect the increase Please indicate the enrollment period for this Service and Support Agreement by signing the corresponding line below:

I hereby authorize performance of this proposal and agree to the following payment terms: **Net 30**

ACCEPTED BY: _____ DATE: _____

Subtotal	
Tax (8.75%)	
Total	

PO Box 48 Viste CA, 92085 www.amsecgroup.com
Voice 760-727-4020 Fax 760-727-4027
CA LIC 665638 ACO LIC 4234

AMERICAN SECURITY GROUP
The eye of the eagle

Proposal

Date	Proposal #
2/29/2012	1006487

Customer	Ship To
Inyo Country Sheriff's Facility PO BOX S 550 S Clay St Independence, CA 93526	Inyo Country Sheriff's 550 S Clay St Independence, CA 93526

Qty	Description
	3 Year Signature _____ Date _____

I hereby authorize performance of this proposal and agree to the following payment terms: **Net 30**

ACCEPTED BY: _____ DATE: _____

Subtotal	$23,130.00
Tax (8.75%)	$0.00
Total	$23,130.00

PO Box 48 Vista CA, 92085 www.amsecgroup.com
Voice 760-727-4020 Fax 760-727-4027
CA LIC 665638 ACO LIC 4234

ATTACHMENT B

AGREEMENT BETWEEN COUNTY OF INYO
AND AMERICAN SECURITY GROUP
FOR THE PROVISION OF Maintenance of Security Surveillance System Equipment **SERVICES**

TERM:

FROM: July 1, 2012 **TO:** June 30, 2015

SCHEDULE OF FEES:

County will pay Contractor $5,782.50 per quarter, for all work performed in accordance with the scope of work.

ATTACHMENT C

AGREEMENT BETWEEN COUNTY OF INYO
AND AMERICAN SECURITY GROUP
FOR THE PROVISION OF Maintenance of Security Surveillance System Equipment **SERVICES**

TERM:

FROM: July 1, 2012 **TO:** June 30, 2015

Form W-9

Request for Taxpayer
Identification Number and Certification
(Please submit W-9 form with Contract, available on-line or by County)

Form **W-9**
(Rev. January 2011)
Department of the Treasury
Internal Revenue Service

Request for Taxpayer Identification Number and Certification

Give Form to the requester. Do not send to the IRS.

Print or type See Specific Instructions on page 2.

Name (as shown on your income tax return)
The AmerGroup Inc.

Business name/disregarded entity name, if different from above
American Security Group

Check appropriate box for federal tax classification (required): ☐ Individual/sole proprietor ☐ C Corporation ☑ S Corporation ☐ Partnership ☐ Trust/estate

☐ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶

☐ Other (see instructions) ▶

☐ Exempt payee

Address (number, street, and apt. or suite no.)
980 Park Center Dr Suite J

Requester's name and address (optional)

City, state, and ZIP code
Vista, CA 92081

List account number(s) here (optional)

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on the "Name" line to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Note. If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Social security number
			-			-				

Employer identification number
3	3	-	0	8	9	0	3	9	3

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
3. I am a U.S. citizen or other U.S. person (defined below).

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 4.

Sign Here | Signature of U.S. person ▶ Pres | Date ▶ 4-9-2012

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Purpose of Form

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

Note. If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.

ATTACHMENT D

AGREEMENT BETWEEN COUNTY OF INYO
AND AMERICAN SECURITY GROUP
FOR THE PROVISION OF Maintenance of Security Surveillance System Equipment **SERVICES**

TERM:

FROM: July 1, 2012 **TO:** June 30, 2015

SEE ATTACHED INSURANCE PROVISIONS

Specifications 2
Insurance Requirements for Professional Services

Consultant shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees.

MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

1. **Commercial General Liability** (CGL): Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis for bodily injury and property damage, including products-completed operations, personal injury and advertising injury, with limits no less than **$1,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. **Automobile Liability:** Insurance Services Office Form Number CA 0001 covering, Code 1 (any auto), or if Consultant has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than **$500,000** per accident for bodily injury and property damage.
3. **Workers' Compensation** insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than **$1,000,000** per accident for bodily injury or disease.

(Not required if consultant provides written verification it has no employees)

1. **Professional Liability** (Errors and Omissions) Insurance appropriates to the Consultant's profession, with limit no less than **$1,000,000** per occurrence or claim.

If the Consultant maintains higher limits than the minimums shown above, the Entity requires and shall be entitled to coverage for the higher limits maintained by the contractor.

Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

Additional Insured Status

The Entity, its officers, officials, employees, and volunteers are to be covered as additional insureds on the auto policy with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of the Consultant; and on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Consultant including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Consultant's insurance (at least as broad as ISO Form CG 20 10, 11 85 or both CG 20 10 and CG 23 37 forms if later revisions used).

Primary Coverage

For any claims related to this contract, the **Consultant's insurance coverage shall be primary** insurance as respects the Entity, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the Entity, its officers, officials, employees, or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.

Notice of Cancellation

Each insurance policy required above shall state that **coverage shall not be canceled, except with notice to the Entity.**

Waiver of Subrogation

Consultant hereby grants to Entity a waiver of any right to subrogation which any insurer of said Consultant may acquire against the Entity by virtue of the payment of any loss under such insurance. Consultant agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the Entity has received a waiver of subrogation endorsement from the insurer.

Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the Entity. The Entity may require the Consultant to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the Entity.

Claims Made Policies

If any of the required policies provide coverage on a claims-made basis:

1. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
2. Insurance must be maintained and evidence of insurance must be provided ***for at least five (5) years after completion of the contract of work.***
3. If coverage is canceled or non-renewed, and not ***replaced with another claims-made policy form with a Retroactive Date*** prior to the contract effective date, the Consultant must purchase "extended reporting" coverage for a minimum of ***five (5)*** years after completion of contract work.

Verification of Coverage

Consultant shall furnish the Entity with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the Entity before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Consultant's obligation to provide them. The Entity reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

Subcontractors

Consultant shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein.

Special Risks or Circumstances

Entity reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

ACORD

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 04/05/2012

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Phone: (707) 469-6776 Fax: (707) 469-8072
ECLIPSE MARKETING & INSURANCE SERVICES
P O BOX 6480
VACAVILLE CA 95696

CONTACT NAME: Jon Brockway
PHONE (A/C, No, Ext): (707) 469-6776 FAX (A/C, No): (707) 469-8072
E-MAIL ADDRESS: jbrockway@eclipseinsurance.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Steadfast Insurance	
INSURER B : Sparta Ins. Co.	
INSURER C : Zurich American Ins. Co.	
INSURER D:	
INSURER E :	
INSURER F :	

INSURED
AMERGROUP, INC.
DBA AMERICAN SURVEILLANCE & SECURITY
PO BOX 48
VISTA CA 92085

COVERAGES **CERTIFICATE NUMBER: 33974** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	GENERAL LIABILITY			EOL9328576-01	07/30/11	07/30/12	EACH OCCURRENCE	$ 2,000,000
	X COMMERCIAL GENERAL LIABILITY						DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 100,000
	[ ] CLAIMS-MADE [X] OCCUR						MED. EXP (Any one person)	$ 5,000
	X Errors & Omissions						PERSONAL & ADV INJURY	$ 2,000,000
							GENERAL AGGREGATE	$ 2,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						PRODUCTS - COMP/OP AGG	$ 2,000,000
	[ ] POLICY [ ] PRO-JECT [ ] LOC							$
B	AUTOMOBILE LIABILITY			014AU02022	05/13/11	05/13/12	COMBINED SINGLE LIMIT (Ea accident)	$ 1,000,000
	X ANY AUTO						BODILY INJURY (Per person)	$
	[ ] ALL OWNED AUTOS [ ] SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	X HIRED AUTOS [X] NON-OWNED AUTOS						PROPERTY DAMAGE (per accident)	$
								$
	[ ] UMBRELLA LIAB [ ] OCCUR						EACH OCCURRENCE	$
	[ ] EXCESS LIAB [ ] CLAIMS-MADE						AGGREGATE	$
	[ ] DED [ ] RETENTION $							$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY			WC933819600	02/01/12	02/01/13	X WC STATU-TORY LIMITS [ ] OTHER	$
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y/N [ ]	N/A					E.L. EACH ACCIDENT	$ 1,000,000
	(Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE-EA EMPLOYEE	$ 1,000,000
							E.L. DISEASE-POLICY LIMIT	$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

CERTIFICATE HOLDER IS NAMED AS ADDITIONAL INSURED PER POLICY WORDING

CERTIFICATE HOLDER

Inyo County Sheriff's Dept.
PO Box Q
Independence, CA 93526

Attention:

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Larry St John

ACORD 25 (2010/05)

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AGENDA REQUEST FORM

BOARD OF SUPERVISORS
COUNTY OF INYO

For Clerk's Use Only:
AGENDA NUMBER

10

☒ Consent ☐ Departmental ☐ Correspondence Action ☐ Public Hearing

☐ Scheduled Time for ☐ Closed Session ☐ Informational

FROM: George L. Milovich, Agricultural Commissioner/Director of Weights and Measures

FOR THE BOARD MEETING OF: April 17, 2012

SUBJECT: Eastern Sierra Weed Management Area Personnel Action

DEPARTMENTAL RECOMMENDATION:

Request the Board find consistent with the adopted authorized position review policy; (1) the availability of funding for the requested positions, as certified by and concurred with the County Administrator and Auditor-Controller, (2) where internal candidates meet the qualifications for the positions of Field Assistant I, the positions could possibly be filled through an internal recruitment, but an open recruitment would be more appropriate to ensure qualified applicants only, (3) approve the hiring of two seasonal Field Assistants I 050PT ($13.90-$16.87 per hour), to work for a 6 month period, (4) contingent upon adoption of future fiscal year budgets.

CAO RECOMMENDATION:

SUMMARY DISCUSSION:

The Eastern Sierra Weed Management Area (ESWMA) division of the Agricultural Commissioner's Office has been awarded a contract in the amount of $23,806 to conduct invasive plant management activities at various locations within Inyo and Mono Counties. A portion of these funds are allotted to personnel costs specifically, and ESWMA would like to hire two seasonal employees to fulfill the terms of this contract and for other related weed control activities.

ALTERNATIVES:

Your Board could not approve the personnel actions outlined in the Departmental Recommendation; this is not advised, as it would result in ESWMA being unable to fulfill the terms of this contract.

OTHER AGENCY INVOLVEMENT:

N/A

FINANCING:

Resources expended for seasonal employee costs are derived from current contracts and agreements. There will be no fiscal impact to the Inyo County general fund since ESWMA is a Non-General Fund program. Budget 621300 has sufficient funds to finance these costs.

APPROVALS	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS *(Must be reviewed and approved by county counsel prior to submission to the board clerk.)* Approved: _____ Date_____
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS (*Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)* Leslie L. Chapman Approved: ✓ Date 4/3/12
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.) Sue D Approved: ✓ Date 4/3/12

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received) _____ Date: 4/3/12

For Clerk's Use Only:
AGENDA NUMBER

11

AGENDA REQUEST FORM
BOARD OF SUPERVISORS
COUNTY OF INYO

☐ Consent ☒ Departmental ☐ Correspondence Action ☐ Public Hearing
☐ Scheduled Time for ☐ Closed Session ☐ Informational

FROM: HEALTH & HUMAN SERVICES

FOR THE BOARD MEETING OF:

SUBJECT: FY 2011-2012 Social Services Budget Amendment

DEPARTMENTAL RECOMMENDATION:
Request Board 1) Amend the FY 2011-12 Social Services Budget Unit 055800 as follows: increase estimated revenue in Social Services Realignment (4420) by $1,460 and increase estimated revenue in Sale of Fixed Assets (4911) by $29,270 and increase appropriation in Prior Year Reimbursement (5499) by $30,730 (4/5's vote required), and 2) Authorize payment to Department of Public Health in the amount of $30,730.

CAO RECOMMENDATION:

SUMMARY DISCUSSION:
In FY 2010-2011 the Women, Infants and Children (WIC) program was awarded One-Time Funds to purchase a vehicle. The department went through the County and State approval process to purchase a 4WD vehicle with these funds. Health and Human Services (HHS) received the approval paperwork from State WIC to purchase the vehicle so the purchase was made. However in the approval paperwork it was stated that HHS would additionally need to follow proper procurement procedures for any purchase over $25,000. Unfortunately the proper procurement paperwork was not filled out, and in a State Audit that occurred in August, 2011, it was found that the purchase of the vehicle was unallowable. The State sent the attached Notice of Audit Findings letter and is now requesting payment of $30,370 for the disallowed purchase of the vehicle.

HHS staff started working with the County Administrative Officer, Auditor-Controller and the Budget Management Analyst back in August when the Audit occurred to see if Motorpool would be interested in purchasing the vehicle for other County Department uses. They responded that there is a need for an additional 4WD to be available through the Motorpool fleet. Due to the Audit exception and the 30 day turn-around time to remit payment to the State, Social Services will facilitate the remittance for the Audit finding until Third Quarter Budget Review when Motorpool will be recognizing this asset transfer at the Kelley Blue Book value of $29,270, and incorporate the vehicle into the Motorpool fleet.

ALTERNATIVES:
Your Board could choose not to approve this budget amendment resulting in the ability to not remit payment of $30,730 back to the State and be out of compliance and possibly risk future funding from the State WIC program.

OTHER AGENCY INVOLVEMENT:

FINANCING:
Social Services Realignment of $1,460 and Sale of Fixed Assets of $29,270 contingent upon adoption of Third Quarter Motor Pool Budget.

APPROVALS	
COUNTY COUNSEL:	**AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS** *(Must be reviewed and approved by County Counsel prior to submission to the Board Clerk.)* Approved: ✓ Date: 4/1/12
AUDITOR/CONTROLLER:	**ACCOUNTING/FINANCE AND RELATED ITEMS** *(Must be reviewed and approved by the Auditor/Controller prior to submission to the Board Clerk.)* Leslie L. Chapman Approved: ✓ Date: 4/11/12
PERSONNEL DIRECTOR:	**PERSONNEL AND RELATED ITEMS** *(Must be reviewed and approved by the Director of Personnel Services prior to submission to the Board Clerk.)* Approved: _____ Date: _____
BUDGET OFFICER:	**BUDGET AND RELATED ITEMS** *(Must be reviewed and approved by the Budget Officer prior to submission to the Board Clerk.)* Approved: ✓ Date: 04-11-2012

DEPARTMENT HEAD SIGNATURE:

(Not to be signed until all approvals are received) Jean Turner by Darrell Canija Date: 4/12/12

State of California—Health and Human Services Agency
California Department of Public Health

Ron Chapman, MD, MPH
Director & State Health Officer

EDMUND G. BROWN JR.
Governor

MAR 2 2 2012

Jean Turner
Director of Health and Human Services
Inyo County Department of Health and Human Services
568 W. Line Street
Bishop, CA 93514

Dear Ms. Turner:

NOTICE OF AUDIT FINDINGS

Enclosed is a copy of the Audit Report dated November 16, 2011, from the State Controller's Office regarding your participation in the Women, Infants, and Children (WIC) Supplemental Nutrition Program.

The auditor's examination disclosed that your agency earned $30,730 in excess of eligible costs during the period of October 1, 2009, through September 30, 2010.

CLAIM FOR REIMBURSEMENT

In accordance with the findings of the audit, please remit payment for $30,730, within 30 calendar days of your receipt of this letter. **Payment must be made payable to the Department of Public Health** and forwarded with reference to the WIC Contract number and date of audit report to:

Carolyn G. Mashburn, Chief
Program and Business Integrity Section
Department of Public Health
Women, Infants, and Children Program
3901 Lennane Drive
Sacramento, CA 95834

CLAIM FOR REIMBURSEMENT (Con't)

Interest on the unpaid balance of an audit finding will accrue at a rate equal to the monthly average of the rate received on investments in the Pooled Money Investment Fund commencing on the date that a finding is mailed, beginning 30 days after receipt of the State's demand for repayment.

CORRECTIVE ACTION PLAN

In accordance with the findings of the audit, please prepare a Corrective Action Plan (CAP) on each audit finding within 30 calendar days of receipt of this letter. Your CAP should be directed to your Local Agency Support Section Chief.

RIGHT TO APPEAL

If you dispute the findings set forth in this Audit Report, you have the right to appeal. Written notice of your disagreement must be received by the Department within 30 calendar days of your receipt of this letter.

Your letter should be addressed to John Melton and it should be specific regarding each issue in dispute, setting forth your contentions as to each of the issues.

The letter should be mailed to:

Mr. John Melton, Chief
Administrative Appeals
Office of Administrative Hearings and Appeals
Department of Health Care Services
1029 J Street, Suite 200
Sacramento, CA 95814

A copy of the letter should be mailed to:

Carolyn G. Mashburn, Chief
WIC Program and Business Integrity Section
3901 Lennane Drive
Sacramento, CA 95834

If you appeal, an administrative hearing will be scheduled in Sacramento. If you are unable to attend in person, you may attend the hearing via teleconference. You will receive advance notice of the time and place of the hearing and be given the opportunity to present your case. Counsel may represent you if you so desire.

If you appeal, prejudgment interest will continue to accrue even though no action will be taken on the collection of the money owed until the appeal decision is issued.

RIGHT TO APPEAL (Con't)

If you have any questions about the Audit Report, please direct your inquiries to:

Ms. Josephine Urban
Audit Manager
Community Related Audits Bureau
Division of Audits
State Controller's Office
P.O. Box 942850
Sacramento, CA 94250-5874
(916) 323-1591

If you have any questions regarding this letter or the payment process, please contact Angelica Alexander, Program Integrity Unit, at (916) 928-8607, or myself at (916) 928-8582.

Due to increased workload and staffing constraints, issuance of this letter exceeded our normal ninety day processing period. We apologize for any inconvenience this may have caused.

Sincerely,

Charles W. Raborn, Jr., CFS
Health Program Auditor IV
Vendor Management Branch
WIC Program

Enclosure
Certified and Regular Mail

NOV 22 2011

INYO COUNTY DEPARTMENT OF HEALTH AND HUMAN SERVICES

Independent Accountant's Report

WOMEN, INFANTS, AND CHILDREN (WIC) SUPPLEMENTAL NUTRITION PROGRAM

WIC Contract No. 08-85427 and Amendment 01

October 1, 2009, through September 30, 2010

JOHN CHIANG
California State Controller

November 2011

JOHN CHIANG

California State Controller

November 16, 2011

Michele van Eyken, Chief
WIC Supplemental Food Program
California Department of Public Health
3901 Lennane Drive, MS 8600
Sacramento, CA 95834

Dear Ms. van Eyken:

The State Controller's Office reviewed the Women, Infants, and Children (WIC) Supplemental Nutrition Program costs claimed by the Inyo County Department of Health and Human Services, a provider in Bishop, California. Our review pertained to WIC Contract No. 08-85427 and Amendment 01 for the period of October 1, 2009, through September 30, 2010.

The provider claimed and was reimbursed $362,152 during the review period. Our review disclosed that $331,422 is allowable and $30,730 is unallowable. The costs are unallowable primarily because the provider purchased a vehicle without the required State WIC and United States Department of Agriculture (USDA) approval. The provider was reimbursed $362,152 and should return to the California Department of Public Health-WIC Office the amount reimbursed in excess of the allowable costs claimed, totaling $30,730.

The exit conference was held on August 26, 2011.

If you have any questions, please contact Lisa Hughes, Chief, Community-Related Audits Bureau, at (916) 322-8489.

Sincerely,

JEFFREY V. BROWNFIELD
Chief, Division of Audits

JVB/sk

cc: Charles W. Raborn, Jr., CFS, CFSA, Health Program Auditor IV
Vendor Management Branch
WIC Supplemental Nutrition Program
California Department of Public Health

Contents

Independent Accountant's Report on Applying Agreed-Upon Procedures 1

Schedule 1—Summary of Program Costs 4

5. Selected a time study period and verified that the costs reported on the Report of Actual Expenditures (DHS 4101) were correctly charged to the four program categories.

   We found no exceptions as a result of this procedure.

6. Reconciled, for two pay periods, the WIC personnel costs recorded in the WIC expenditure ledgers to the provider's payroll registers and/or general ledger.

   We found no exceptions as a result of this procedure.

7. Selected two employees from the above sample periods and traced the salaries and wages to documentation such as personnel files and timecards.

   We found no exceptions as a result of this procedure.

8. Reviewed the fringe benefits components for unallowable charges.

   We found no exceptions as a result of this procedure.

9. Selected from the capital expenditures, operating expenses, and other cost categories claimed, five transactions from the expenditure ledger and traced them to supporting documents such as purchase orders, invoices, cancelled checks, and/or approvals.

   Finding: The provider purchased a vehicle without prior State WIC and U.S. Department of Agriculture (USDA) approval. This finding is further described in item 10 of the agreed-upon procedures.

10. Verified that expenditures exceeding the federal minimum level are properly approved in advance by CDPH-WIC and/or the USDA.

    Finding: The provider purchased a vehicle in the amount of $30,730 without prior State WIC and USDA approval. The provider claimed and was reimbursed $29,267 for the unapproved capital expenditure. Additionally, the provider claimed and was reimbursed $1,463 for other costs (subcontractors), related to the purchase of the vehicle. This was not an allowable subcontractor cost.

    The WIC Contract Management Binder (CMB), Chapter 6, Procurement, states, "State WIC and USDA approval is required for equipment with a base cost of $25,000 or more per unit, such as vehicles and telephone systems."

    Recommendation: The provider should return $30,730 to the CDPH-WIC.

    Provider's Response: Denelle Carrington, the Fiscal Director for Inyo County Department of Health and Human Services, disagreed with the finding and provided the following statement:

    > I acknowledge that the proper procedures were not followed for the purchase of a vehicle back in 2009. Inyo did not get a procurement for the vehicle. Inyo did have budget and line item approval for the vehicle, but as stated on the approval email from Paul Smith on 10/19/2009, the procurement procedure did not get done.
    >
    > Management Staff have worked with WIC program and fiscal staff on communications and all have viewed the proper procedures in the Contract Management Binder (CMB) to ensure that all proper procedures will be followed in the future.

SCO's Comment: Our finding and recommendation remain unchanged. The provider did not provide any additional documentation to mitigate the finding. According to the Approval Thresholds in the CMB, Chapter 6, "State WIC Program and USDA approval is required for equipment with a base cost of $25,000 or more per unit, such as vehicles and telephone systems." As the provider did not receive approval, the cost of the vehicle is disallowed.

11. Determined if the local agency WIC program income, if any, is reported in accordance with requirements.

    We found no exceptions as a result of this procedure.

12. Verified that proper cost cut-off occurred at contract termination.

    We found no exceptions as a result of this procedure.

13. Verified that the provider properly monitored its subcontractors.

    We found no exceptions as a result of this procedure.

14. Reviewed the provider's Cost Allocation Plan or federally approved indirect cost rate to determine the actual indirect cost rate allocated to the WIC program.

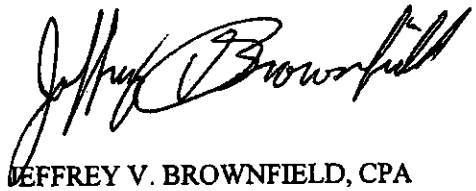
    We found no exceptions as a result of this procedure.

15. Verified that the indirect costs claimed by the provider do not exceed the least of the amount authorized by the WIC contract, 13.8% of approved salaries, wages, and fringe benefits, or indirect costs allocated to the WIC program.

    We found no exceptions as a result of this procedure.

The SCO was not engaged to and did not conduct an audit, the objective of which would be the expression of an opinion on the Summary of Program Costs. Accordingly, the SCO does not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

This report is intended solely for the information and use of CDPH-WIC, the Inyo County Department of Health and Human Services, and the SCO. It is not intended to be and should not be used by anyone other than those specific parties. This restriction is not intended to limit distribution of this report, which is a matter of public record.



JEFFREY V. BROWNFIELD, CPA
Chief, Division of Audits

November 16, 2011

Schedule 1—
Summary of Program Costs
October 1, 2009, through September 30, 2010

	Costs Claimed	Allowable Per Review	Audit Adjustments
Personnel	$ 245,819	$ 245,819	$ —
Operating expenses	75,306	75,306	—
Capital expenditures	29,267	—	(29,267)
Other costs	10,108	8,645	(1,463)
Indirect costs	1,652	1,652	—
Total contract costs	$ 362,152	331,422	$ (30,730)
Less amount reimbursed by the State		(362,152)	
Allowable costs in excess of (less than) amount reimbursed		$ (30,730)	

AGENDA REQUEST FORM

BOARD OF SUPERVISORS
COUNTY OF INYO

For Clerk's Use Only:
AGENDA NUMBER

12

☐ Consent ☒ Departmental ☐ Correspondence Action ☐ Public Hearing

☐ Scheduled Time for ☐ Closed Session ☐ Informational

FROM: Assessor, Auditor-Controller, County Administrator, Information Services and Treasurer-Tax Collector

FOR THE BOARD MEETING OF: **April 17, 2012**

SUBJECT: Request for Proposals: Integrated Property Tax Management System/Project Manager: PTMS

DEPARTMENTAL RECOMMENDATION:

1) Presentation and initial discussion for the replacement of the aging CREST Property Tax System, review the draft RFP for a replacement Property Tax System and review the draft RFP for a project manager.
2) Request your Board authorize the issuance of County of Inyo Request For Proposal RFP-PTMS12, Software and Implementation and Training Services for an Integrated Property Tax Management System contingent upon obtaining the appropriate approvals.
3) Request your Board authorize the issuance of County of Inyo Request For Proposal RFP-PTMS13, Project Management Service for the Integrated Property Tax Management System upon obtaining the appropriate approvals.

CAO RECOMMENDATION:

SUMMARY DISCUSSION:

A replacement for the CREST Property Tax Management System (PTMS) is needed. We have established a PTMS working group consisting of the above referenced departments or their representatives. The Financial Advisory Committee (FAC) has been designated the oversight committee for the project. The project sponsor is the Treasurer-Tax Collector's Office.

History: CREST was purchased for the Auditor-Controller and the Treasurer-Tax Collector in 1992 and has served Inyo County well for almost twenty years. The Assessor was integrated in 2005 when support for their legacy system ended. The primary reasons change is considered necessary are:

- To reduce the high level of risk caused by relying primarily on one person at CREST, to support a mission critical software program.
- CREST has not been able to complete requested software enhancements which would have improved staff productivity.
- CREST's business model does not provide capacity for necessary growth to improve staff productivity or become user friendly.
- Many processes must be done outside of CREST relying heavily on the use of spreadsheets and/or knowledge of long-time employees; some of whom are eligible for retirement.
- The time has arrived to address our overall hardware needs. This type of investment should be inclusive of future anticipated and unanticipated demands. The recent replacement of one server lifted the immediate risk of onsite hardware failure.
- Providing public information via the County website will enhance the quality of service to our constituency.
- Our Information Services department does not have the resources to develop an in-house system.
- Over the past few months, the working group has developed the two RFP's included for review, discussion and direction. While it is not a requirement that the RFP's are brought before your Board for review and approval prior to issuance, a project of this magnitude deserves a public discussion. This was also a recommendation of the FAC.

ALTERNATIVES:

OTHER AGENCY INVOLVEMENT:

The PTMS is a primary revenue generating system. The County, Schools, Fire Departments, Hospitals and many other agencies are the recipients of property tax revenues. A system that provides reliability, expeditious processing and the availability of public information will benefit every citizen of Inyo County.

FINANCING:

There is no financial impact since staff costs to develop, issue and evaluate the RFP and responses thereto, are already included in the budgets.

APPROVALS	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS *(Must be reviewed and approved by county counsel prior to submission to the board clerk.)* Approved: yes Date 4/10/12
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS (*Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)* Leslie L. Chapman Approved: ✓ Date 4/10/12
County Administrator:	RFP AND RELATED ITEMS (Must be reviewed and approved by the County Administrator prior to submission to the board clerk.) Approved: PENDING Date 4-12-12

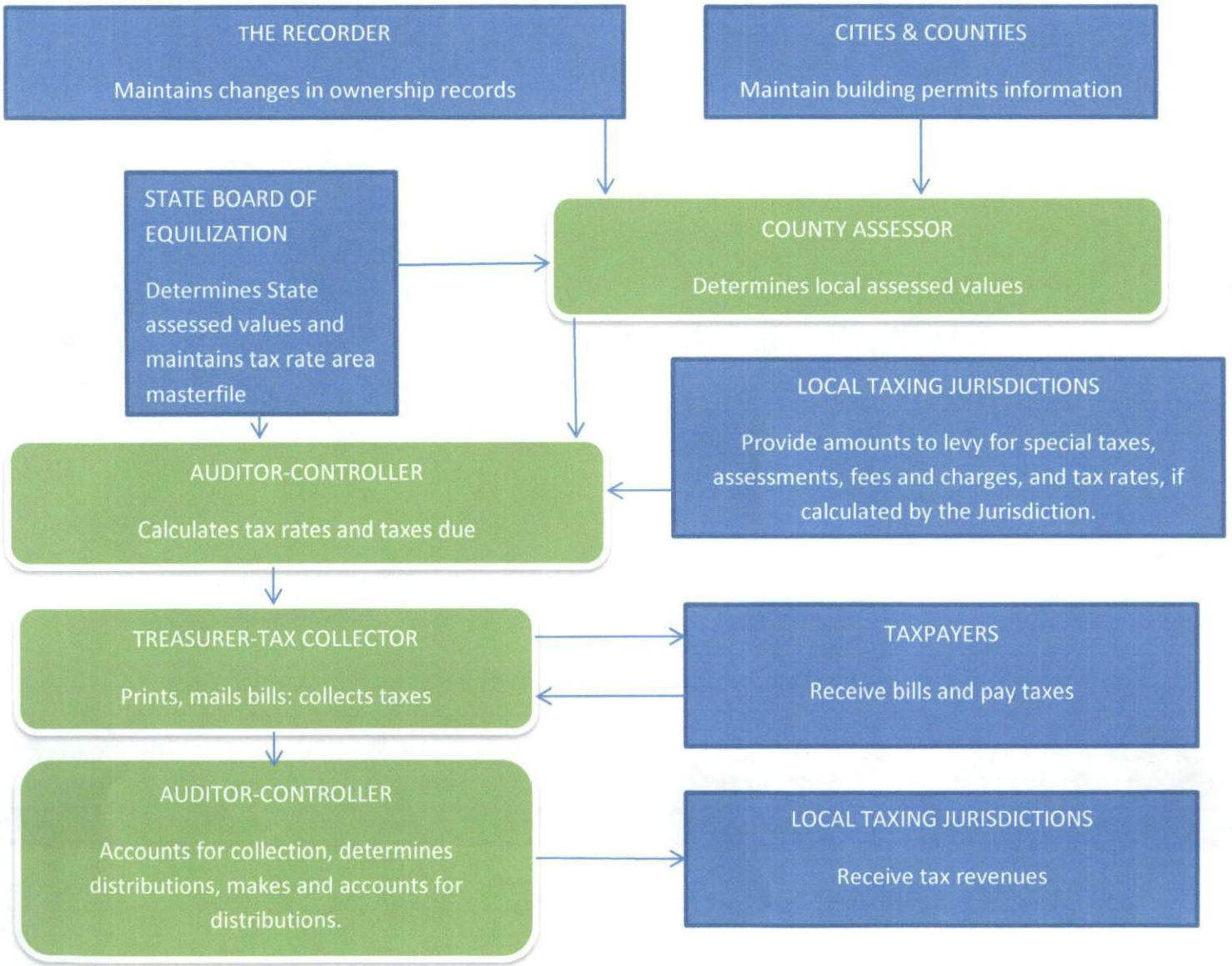
DEPARTMENT HEAD SIGNATURE: Date: 4-10-12
(Not to be signed until all approvals are received)
(The Original plus 20 copies of this document are required)

DEPARTMENT HEAD SIGNATURE: Thomas W Lanshaw Date: 4-10-12
(Not to be signed until all approvals are received)
(The Original plus 20 copies of this document are required)

DEPARTMENT HEAD SIGNATURE: Date: 4/11/12
(Not to be signed until all approvals are received)
(The Original plus 20 copies of this document are required)

THE PROPERTY TAX SYSTEM

OVERVIEW



COUNTY OF INYO

REQUEST FOR PROPOSAL

RFP-PTMS12

SOFTWARE AND IMPLEMENTATION AND TRAINING SERVICES FOR AN INTEGRATED PROPERTY TAX MANAGEMENT SYSTEM

APRIL 2012

SUBMIT PROPOSALS TO

CLERK OF THE BOARD
224 NORTH EDWARDS STREET
P.O. DRAWER N
INDEPENDENCE, CALIFORNIA 93526

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SECTION 1: INTRODUCTION

1.1 About the Organization

The County of Inyo is a governmental organization

Inyo County, California was organized in 1866 from land set aside from Mono and Tulare Counties. The County was originally named Coso County, with the town of Independence designated as the County seat. The County is located in the central-eastern part of the state. Presently, Inyo County is geographically the second largest county in California, comprised of more than 10,142 square miles. The governmental agency was organized, in part, to provide safety and services to its population.

According to census information, the population of Inyo County in 2010 was 17,293 (estimated) and showed a decrease of 3.6% over the 2000 census. The census also reports a median household income of $47,197 or 23% below that of the California median and a median value of owner-occupied homes of $161,300 or 24% below that of the California median.

While the County seat is located in Independence, the population center of the county is approximately 45 miles to the north in Bishop, California. Bishop and its immediate suburbs host a population of approximately 12,000.

There are five Board of Supervisor members, each representing one of the five county supervisory districts. While there is a County Administrative Officer, the role is administrative in nature; all appointed officials report directly to the Board.

Services must be provided over a large area without benefit of abundant revenue

One can surmise from this data that Inyo County has a population density of less than 2 persons per square mile. Services must be provided over a large geographical area. Monies available to provide these services are limited based on generally low County revenues due to the relatively low population, low income and low property values of the area.

The County budget is approximately $79 million dollars with approximately $49 million dollars comprising the General Fund.

The County of Inyo government organization is the county's largest single employer consisting of approximately 500 employees.

Inyo County is a slow growth area

Only approximately 2% of the land in Inyo County is privately held. The Los Angeles Department of Water and Power and the Federal Government own the larger balance of

land in the county. As a result, very little growth in population and revenue is anticipated over the next several years.

1.2 Issuing Agent

Project Sponsor

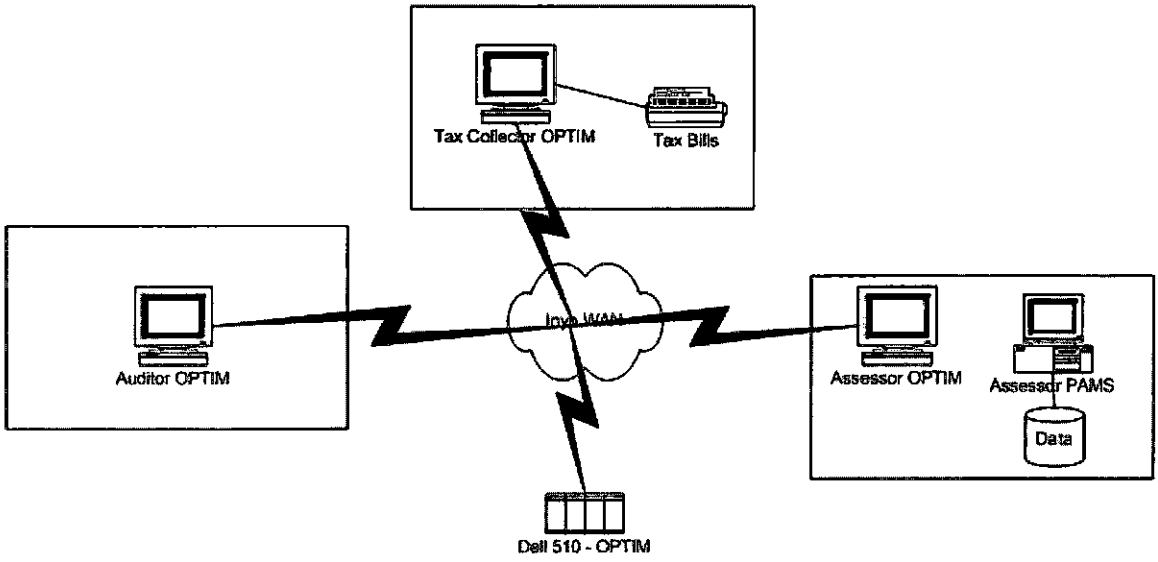
The County of Inyo Treasurer/Tax Collector's Office is sponsoring this project. Unless specifically directed to do so, Vendors are specifically instructed to NOT contact any elected officials or County employees for meetings, conferences or technical discussions related to the RFP. Unauthorized contact with elected officials or County personnel may result in rejection of the vendor's RFP response. All communications with the County regarding this RFP (other than the formal submittal) should be via email and directed to:

Alisha McMurtrie, amcmurtrie@inyocounty.us

1.3 Current System

Inyo County must replace the present property tax management system

The County presently uses Crest Software Corporation's OPTIM tax management software to accomplish property tax management. The software operates under Linux on a Dell R510 server.



1.4 Technology Vision

Pragmatic Efficiency and Effectiveness

The County recognizes the need to upgrade its technical infrastructure and expects to leverage the upgrade to enhance the organization's efficiency and effectiveness including acquiring a contemporary property tax management system allowing better service delivery to its citizens. However, due in part to its rural operating environment, the County contends with some technological constraints that may prohibit it from accepting certain "high-tech" solutions.

1.5 Project Goals

General Summary

The County of Inyo seeks proposals from software and implementation service providers that specialize in developing and installing integrated property tax management systems or providing integrated property tax management application services for the public sector. The County realizes its current system is at risk of catastrophic failure and lacks contemporary functionality allowing efficient and effective data management and service delivery. Though a new integrated property tax management system the County seeks to:

- Meet all legal mandates related to California property tax administration
- Apply "best practice" processes
- Simplify processes and stream line procedures
- Improve access to property tax information and public service
- Improve reporting and facilitate report distribution
- Improve property tax administration effectiveness
- Prepare the County for the advent of e-Government services
- At a minimum meet the needs of the Assessor, Auditor and Tax Collector related to California property tax administration

Technical Summary

The County is seeking proposals for an integrated property tax management system and comprehensive implementation services. Alternatively the County will consider proposals detailing Application Service Provider (ASP) models. The proposals shall include a recommendation for the system that best meets the County's functional requirements, as well as an estimate of the implementation time, hardware and software requirements. In addition, the proposal shall describe the responsibility and level of involvement of County personnel for implementation and operational maintenance. Other components of the proposal shall include training approach and requirements and any recurring and non-recurring costs required for implementation and maintenance of the recommended system. The software and services package proposed by the winning

vendor shall provide the County with a single-source solution to replace the County's present system.

The County seeks an "out-of-the-box" solution that does not require programming modifications to meet the County's needs. The County does not have a strong technical structure preference but expects that the client side will be Microsoft Windows 7 compatible. Should the solution integrate with Microsoft Office, the solution should be compatible with Microsoft Office 2010.

In addition to highly functional applications, the County expects that system data can be easily queried and will fully support drill-down functionality. The system should be implemented with many standard reports that can be emailed as well as be exported electronically to desktop productivity applications. The County anticipates that the system will facilitate creation of custom reports in addition to those provided with the system. The system is expected to have comprehensive, flexible security.

The County seeks comprehensive installation and training services. The selected vendor is expected to provide project management, installation/implementation expertise and training. Training may be web based but it is expected that initial training will be conducted using live interaction with vendor training staff.

The County expects project implementation to commence in January 2013. The "go-live" date is projected for July 2014. The County expects this long-term project to consist of at least the following components:

1. Pre-implementation planning: The selected vendor will work with the County Project Team staff to develop a comprehensive project plan covering all steps of the implementation.

2. Hardware installation: Vendor must define hardware requirements for the system and verify that the hardware requirements have been met before software implementation can begin

3. Software installation: Vendor will be responsible for any server-side software installation. Vendor will train County Information Services on client-side installation. The system may be implemented in a phased approach which will require the development and maintenance of transitional interfaces between the County's legacy property tax system components and the vendor's solution.

4. Data Conversion: Vendor will have proven data conversion experience. Vendor will work with County to ensure necessary data is properly converted. Data conversions required for operation of system will be prioritized.

5. Training: Vendor will provide high-quality training and comprehensive technical documentation to County's Information Services staff. The vendor will provide high-quality training and system usage manuals to selected end-users.

6. On-site support: The County expects on-site support during critical phases of the project such as periods of parallel processing and initial live processing.

7. On-going support: Once the property tax management system is operational, the County expects to have access to competent and expeditious support throughout any workday.

Project Management

In an effort to keep the project on time and within budget, the County requires the selected vendor to assign a project manager to oversee the entire project implementation. The vendor project manager will work with the County project manager to ensure project success. The County expects a comprehensive project plan developed by the vendor and shared with the County comprised of the following subcomponents:

1. **Schedule Management Plan**
   The Schedule Management Plan establishes how schedule management will be carried out in the project. It serves as guidance for the scheduling process. It formats and defines the roles and responsibilities for stakeholders in those processes. It does not provide detailed schedule information, but instead explains how that information will be captured, expressed, and modified. The Schedule Management Plan includes descriptions of required documents (e.g. network diagrams, Gantt charts, milestone charts), as well as insight on how those documents may be developed.

2. **Scope Management Plan**
   The Scope Management Plan describes how the team will define the scope, develop the detailed scope statement, define and develop the work breakdown structure, verify the scope and control the scope of the project. The components of the Scope Management Plan include: A process to describe the preparation of a detailed scope statement based upon the preliminary project scope statement; a process that enables the creation of the work breakdown structure from the detailed project scope statement; a process that specifies how formal verification or acceptance of the completed project scope statement and its companion work breakdown will be obtained; a process to control how requests for changes to the detailed project scope statement will be processed. This process is directly linked to integrated change control.

3. **Issue Management Plan**
   The Issue Management Plan describes how the project will contend with environmental, cultural, technical, and project-specific concerns that either exist or will inevitably come to pass. Because issues are conditions that must be dealt with (unlike risks, which may or may not occur), the Issue Management Plan identifies concerns that must be either acknowledged or addressed.

4. **Quality Management Plan**
   The Quality Management Plan provides guidance on how quality will be ensured on the project through design reviews, documentation, and other protocols. The plan clearly defines how quality will be maintained and what supporting documentation is expected (addressing quality) during the life of the project.

5. Change Management Plan

The Change Management Plan is the definition of the formal process for making changes to the project's original scope. It generally involves redefining existing objectives and deliverables or specifying new project objectives and deliverables.

6. Risk Management Plan

The Risk Management Plan is a document that is intended to foresee risks and to create response plans to mitigate them. The Risk Management Plan contains an analysis of likely risks with both high and low impact, as well as mitigation strategies to help the project avoid being derailed should common problems arise.

7. Resource Management Plan

The Resource Management Plan describes how and when project team members will be engaged and allocated, the criteria for releasing them from the project, the identification of training needs and the impacts to the organization.

8. Communications Management Plan

The Communications Management Plan defines the communication requirements for the project and how information will be distributed. This includes: communication requirements based on roles; what information will be communicated; how the information will be communicated; when will information be distributed; who does the communication; who receives the communication.

9. Configuration Management Plan

The Configuration Management Plan defines the process by which work product integrity is maintained using configuration identification, configuration control, configuration status, and configuration audits. The plan must address the following topics: Establishing baselines; tracking and controlling changes; maintaining integrity.

10. Phased Implementation Plan

This Phased Implementation Plan defines the implementation phases for the project by department, functional area and process. The bidder is required to update this document based on the actual implementation.

11. Transitional Interface Plan

The Transitional Interface Plan describes the plan for approaching the transitional interfaces required to support the Phased Implementation Plan. The Transitional Interface Plan must address the interfaces required to support the on-going operations of the legacy systems and the phased systems throughout the phased implementation. The plan should describe the general approach to the transitional interfaces, selected tools and techniques, descriptions of what information is required to be exchanged between legacy and phased systems, and interface approach alternatives.

12. Test Plan

The Test Plan forms the framework within which the team performing the testing will work throughout the project. It directs, guides, and constrains the test effort. It focuses work on the useful and necessary deliverables. It communicates the intent of the effort to stakeholders. The Test Plan captures the following informational elements: The definition of the goals and objectives of the test effort within the scope of the iteration (or project); the definition of the targeted test items; an explanation of the approach or strategy that will be used; the resources and schedule required; the deliverables to be produced.

13. **Training Plan**
The Training Plan outlines the activities required to design, develop and deliver a training program. It outlines the objectives, needs, strategy, and curriculum to be addressed when training users on a new or enhanced system.

The County recognizes that the selected vendor will become the County's long-term technology partner. Therefore, the County will consider the vendor's staff knowledge, support guarantees and history when awarding the contract. The County seeks a vendor with proven successful experience installing and maintaining its system for other government entities similar to the County.

The County expects all respondents to propose a complete solution that clearly describes and defines required and optional hardware, system software, integrated software, project management, implementation services, data conversion services, documentation, training services and on-going support services.

Number of Users

The County expects to provide system access to approximately 25 users and estimates concurrent sessions to average below 10. The majority of system access will occur between 7:00 a.m. and 6:00 p.m. business days; however, occasional weekend, holiday and evening access will be required. The vendor must specifically indicate if there are times and the circumstances when the system cannot be accessed.

Unattended Data Center

The County's data center is a lights-out facility. The County anticipates that the selected solution will be highly automated from a system maintenance perspective.

SECTION 2: PROPOSAL INSTRUCTIONS

2.1 General Conditions

Proposal Cost

Those submitting proposals do so entirely at their expense. There is no expressed or implied responsibility on the part of the County of Inyo to reimburse vendors for any expenses incurred for preparing or submitting proposals, providing additional information when requested by the County of Inyo, or participating in any selection interviews.

Contract Execution

The successful bidder will be required to execute a contract as approved by the County Counsel and the County Risk Manager.

Prime Contractor Responsibility

Any vendor's proposal that includes equipment and/or software marketed and/or supported by other companies or individuals should contain a statement that the vendor intends to act as prime contractor for the delivery and maintenance of the entire system.

Basis of Selection

No commitment will be made to select a vendor's system solely on the basis of price. The primary basis for selection will be the proposed solution's ability to meet the County's business needs; however, weight will also be given to overall acquisition and operating cost, maintainability and vendor's reputation and ability to be a strong business partner.

Selection Criteria

The selection criteria listed below represent critical issues that will impact the success of the County of Inyo Integrated Property Tax Management System project. The vendor should make certain that their proposal addresses each of these issues.

1. Proven System Capabilities: The vendor must demonstrate that other similar governments/jurisdictions are using the proposed solution. Further, the vendor must show how the proposed system will be enhanced to incorporate new technologies in the future.

2. Features: The vendor must address the general and specific requirements as defined in the Request for Proposals.

3. Comprehensive Vendor Services: The vendor must specify its ability to provide the wide range of services outlined in this Request for Proposal. The successful bidder must demonstrate its ability to provide consistently high quality services.

4. Cost: The vendor must provide the required systems and services at a cost that is economically feasible in the opinion of the County.

5. System Reliability: A reliable, robust and accurate information system is of critical importance to the County.

6. Supportability: The vendor must document their support competence. Further the vendor must demonstrate their ability to document the proposed system so that it can be supported in the future.

7. Implementation project Management: The vendor will be judged on its proven ability to successfully manage project implementation. The vendor must provide the County with information on how it intends to approach the implementation of the proposed property tax management system, what services are included in the proposed implementation plan and what services are otherwise necessary.

8. Timing: The County is interested in working with a vendor able to begin implementation activity immediately following successful contract negotiations. The vendor must provide staff resource scheduling to demonstrate its ability to meet the objective.

Proposal Evaluation

The intention of the County of Inyo is to acquire a functionally complete, cost effective integrated property tax management system. Responses to this RFP will be evaluated according to the following criteria:

- Quality, clarity and responsiveness of the proposal in conformance with the instructions, conditions and format as requested in this document;
- Functionality and technical requirements of the proposed solution;
- Proposed installation, implementation and training plan;
- Demonstration of proposal's claims;
- Cost

A team selected by the County of Inyo will evaluate all proposals deemed responsive to the request. The initial evaluation will consider the submitted responses and provided references only. The proposals will be ranked based on an analysis conducted by the evaluation team.

Discussions may take place with the finalists to clarify the proposal and obtain a best and final offer. Any award granted will be granted to the respondent proposing the best solution for the County as determined solely by the County.

Exceptions and Omissions

Should any vendor find any omissions, discrepancies or ambiguities in this RFP, the vendor should notify the County in writing (via email) immediately. All questions will be answered to the extent possible as soon as possible after the County receives the notification. Please note that all omissions, discrepancies, or ambiguities are not purposeful. Please direct all such notifications to:

Alisha McMurtrie, amcmurtrie@inyocounty.us

Additional Information

If the vendor requires additional information to complete the proposal, the vendor is cautioned that opportunity to obtain additional information should be limited to technical and/or procedural questions and should not be viewed as a sales presentation opportunity. Requests must be made in writing via email. Please direct all such requests to:

Alisha McMurtrie, amcmurtrie@inyocounty.us

Project Contact

Alisha McMurtrie – Treasurer/Tax Collector
County of Inyo
P.O. Drawer O
Independence, CA. 93526

Phone: 760-878-0312
Fax: 760-878-0311
Email: amcmurtrie@inyocounty.us

Submissions

A copy of the proposal must be summited by hard copy.

If by U.S. Mail to: *
Inyo County Board Clerk
RFP-PTMS12
P.O. Box Drawer N
Independence, CA 93526

If by non U.S. Mail: *
Inyo County Board Clerk
RFP-PTMS12
224 North Edwards Street
Independence, CA 93526

*(US Post Office does not deliver to street addresses in Independence)

Submissions must be received no later than 3:30 PM, Friday, June 29, 2012. The County reserves the right to deem respondent non-responsive if submissions are not received by the date and time stipulated. It is the responsibility of the respondent to ensure delivery by the date and time stipulated; the County reserves the right to discount failure of the delivery mechanism utilized by the respondent but generally will not discount failure of the delivery mechanism utilized by the respondent.

Submittal Checklist

Please use the following proposal checklist to ensure you are submitting a complete proposal. Clearly identify all CD-ROMs with your business name and address.

- ☐ One original paper copy clearly marked as "original"
- ☐ Three duplicate paper copies
- ☐ Three complete proposals saved on two CD-ROMs, including all electronic spreadsheets, training manual examples and reference documents
- ☐ At least five meaningful pages of a training manual
- ☐ Example reports and screen shots
- ☐ Sample project plan
- ☐ Functional and technical requirements completed and saved electronically. Hard copy also provided.

Schedule

Proposals will be processed according to the following schedule of estimated target dates:

Issue RFP to potential bidders	May 1, 2012
Notice of Intent to Bid Due	May 30, 2012
Proposals Due	June 29, 2012
Selection of Finalist	September 3, 2012
Contract Negotiations Completed	September 28, 2012
Contract Awarded	October 2, 2012
Implementation Begins	January 2013
Anticipated Cut-Over/Go-Live Date	July 2014

Proposal's Use / Vendor Guarantees

The vendor's response to this RFP acknowledges that the rights have been reserved to include any part or parts of the selected vendor's proposal in the final contract. Submission of any proposal indicates acceptance of the conditions contained in the RFP.

By submission of a proposal, the vendor certifies that:

The prices in this proposal have been arrived at independently and without consultation, communication, or agreement, for the purpose of restricting competition as to any matter relating to such prices, with any other vendor.

The vendor has not paid or agreed to pay any fee or commission, or any other item of value contingent on the award of this contract to any employee, official, or current contracting consultant of the County of Inyo.

All proposals submitted and the included pricing shall be valid for a period of 120 calendar days from the date of proposal opening.

Rights of County

The County, at its sole discretion, reserves the right to:

1. Reject any or all responses without cause.
2. Reject all responses and seek new responses when such action is judged to be in the best interest of the County.
3. Request and receive additional information as the County believes is necessary and to disqualify any company and reject any responses for failure to promptly provide such additional information.
4. To waive any informalities or incomplete responses and to disregard all non-conforming, non-responsive or conditional proposals.
5. Negotiate with any and all vendors.

Section 3: SUBMITTAL REQUIREMENTS

3.1 Proposal Format

To facilitate the analysis of responses to this RFP, vendors are required to prepare their proposals in accordance with the instructions outlined in this section. Vendors whose proposals deviate from these instructions may be considered non-responsive and be disqualified at the discretion of the County.

Vendors shall prepare proposals as simply as possible and provide a straightforward, concise description of its capabilities to satisfy the requirements of the RFP. The technical/functional requirements response section of the proposal must be submitted on CD-ROM (Microsoft Excel format) AND in hardcopy as part of the submitted document. Emphasis should be concentrated on accuracy, completeness, and clarity of content. All parts, pages, figures, and tables shall be numbered and clearly labeled. The proposal must be organized into the following sections:

Section	Heading
	Title Page
	Letter of Transmittal
	Table of Contents
1.0	Executive Summary
2.0	Company Background and Staff Biographies
3.0	Proposed Application
4.0	Proposed Technology
5.0	Implementation Methodology
6.0	Training

7.0 Maintenance Services
8.0 Client References
9.0 Cost Proposal
10.0 Sample Documents
11.0 Responses to Qualitative Questions
12.0 Responses to Functional/Technical Requirements
Compact Diskettes

Requirements relative to each section of the RFP response are described below.

Proposal Section 1: Executive Summary

The Executive Summary should be limited to a brief narrative highlighting the vendor's proposal. The summary should be written for a non-technical reader and contain a brief description of each component and how it works. Note which products are your own and which are partner products. Please do not include cost quotations in this section.

Proposal Section 2: Company Background and Staff Biographies

The County seeks information about each vendor in order to evaluate the company's stability and ability to support the commitments set forth in response to this RFP. For the principal and each partner vendor relative to the proposal, include a separate vendor profile including:

- Office location nearest Independence, California;
- Company's history – detailing length of time in business;
- Number of years of Property Tax Management Systems experience;
- Company ownership, structure, size and employee retention success;
- Company's mission or vision statement;
- Description of company's target market;
- Percentage of business in public sector;
- Percentage of business in County/City government;
- Number of installations similar to that proposed;
- Percentage of vendor's operating budget invested in research and development;
- Most recent audited financial statement;
- Explanation of any pending litigation;
- Nature of the vendor's commitment to the public sector and its customers;
- Staff biographies:

The County seeks a meaningful, substantive and long-term relationship with the vendor selected and realizes that a vital resource will be the vendor's staff members. Please provide biographies of key staff members. The County also seeks biographies of staff members who will be involved with the County's implementation. Include key facts about each person, such as length of employment with the vendor, job responsibilities, work experience and certifications held.

Proposal Section 3: Proposed Application

The vendor must detail the functionality and capabilities of the proposed application software. Please provide, in succinct narrative form, information about the integration and features of each application recommended in the response. Explain whether the suggested software is module-based. The County is interested in the benefits it can expect to realize from the proposed solution such as built-in time saving workflows, electronic approval routing, integrated help and data entry validation; please highlight these capabilities in your software narratives.

It is imperative that the solution generates accurate, well-developed reports. Please provide information about the proposed solution's reporting capabilities including types of reports, printing options, electronic delivery/export and ad hoc reporting. Be sure to detail how the proposed solution meets government reporting requirements, periodic and other reporting requirements.

Proposal Section 4: Proposed Technology

Based on its geographically remote location and organizational culture, the County is most interested in solutions based on established, stable technology. Describe the technologies that comprise your proposed solution (programming language(s) used, computing hardware (servers), database engines(s) and operating system(s)). Please provide a short narrative history of your system development efforts and a description of any recent changes you have implemented.

Please specify the computer hardware, network environment and operating system(s) necessary to implement/operate the proposed solution. If there are multiple acceptable hardware solutions, please detail each acceptable option; generally the County is expecting a minimum configuration and a recommended configuration if they are not the same. It would be helpful to the County to know what percentage of your customers using the proposed solution do so using the recommended hardware configuration. While not a requirement, the County prefers a Wintel solution assuming business requirements are met.

The database is the core of any integrated system. Provide a description of the relational database management system (RDBMS) on which the proposed solution is built. List any end-user productivity tools that are required or optional. In the event there is more than one suitable database platform, list each acceptable option and detail the relative strength and weakness of each option.

The County does not wish to customize the solution directly. Nonetheless, describe how County can customize the solution. Additionally describe how the vendor can customize the solution for the County and the process invoked when the County desires customization.

The County prefers a solution void of software components that would have to be licensed/contracted from other than the vendor proposing the solution. Nonetheless, detail all third-party software required to implement/operate the proposition and indicate if the third-party software would be licensed to the County by the vendor or another party.

Proposal Section 5: Implementation Methodology

Implementation of an integrated property tax management system is a monumental task. Describe the methods and processes employed to ensure the system is successfully implemented smoothly and on schedule. It would be helpful to include an example project plan.

Proposal Section 6: Training

The County has been working with technology considered modern in the 1980's. County technical and end-user staff will need to be trained on the new system. Describe the tools and processes employed to make technically naïve end-users competent on the new system.

Explain the anticipated responsibilities of the County technical staff relative to support of the new system and related hardware. Explain what training the technical staff will receive so they can successfully fulfill their responsibilities.

Proposal Section 7: Maintenance Services

The County requires top-quality support services. Please describe the support services offered including:

- Trouble call tracing system
- Response time
- Phone and web-based help
- Any support programs/levels
- Frequency and delivery mechanism for new software releases
- Notification and delivery method for bug fixes and patches
- Available user groups
- Other support

Be sure to define any service level options and describe which services are included in the annual maintenance fees and which are optional.

Describe how customer feedback is solicited and incorporated into software enhancements.

Describe the testing process and quality control procedures for patches, updates and releases.

Proposal Section 8: Client References

Every vendor must provide client references. The references should be organizations with similar business requirements (i.e. government) and of similar size. List the scope of the software in use by the reference (e.g. Assessor, Auditor, Tax Collector, etc.). Information should include: name of client reference, jurisdiction, mailing address, physical location of primary installation (if different from mailing address), telephone, fax number, email address, date implementation began and date implementation was completed.

If the implementation provider is a separate company from the vendor responding, references must be provided for the implementation provider as well.

ALL references will be contacted should your company be included on the finalists list.

Proposal Section 9: Cost Proposal

Every vendor must define the licensing structure and document the complete cost for licensing, installation and ongoing support of their proposed system. The County reserves the right to contact the vendor for cost and scope clarification at any time during the negotiation and selection process. Please provide as much detail as possible. Items that should be defined should include:

- Licensing fee for each module/application
- Training fee for each module/application
- System software and specialized hardware (if any – County expects to independently acquire market-available recommended hardware)
- Implementation services categorized as:
  - Project Management
  - Technical Services
  - Parallel Testing/Production user assistance
  - Data Conversion
  - System Staging
  - On-site Installation
  - Technical Staff Training
- Annual Maintenance Fees (if there are multiple options and/or levels, provide fee detail for each)

The County realizes costs are based on some assumptions and pledges to work with all vendors during the negotiation process to arrive at a fair and equitable agreement. Vendors are encouraged to provide documentation about any assumption made while determining pricing (for example, conversion fees may be based on an assumption of the number of data files to be converted).

Proposal Section 10: Sample Documents

The County expects complete and competitive proposals to include sample copies of the following documents:

- Sample Implementation Plan
- Screen shots showing, at a minimum, the following:
  - Menu Screen
  - Typical Assessor screen view
  - Typical Auditor screen view
  - Typical Tax Collector screen view
- Standard Reports
- Custom Report
- End-User Documentation (at least 5 meaningful pages)

Proposal Section 11: Respond to Qualitative Questions

The subject matter experts will evaluate each answer to the qualitative questions. The County will assess each answer as:

Favorable: The vendor's response communicates a similar vision of high-quality customer service, and the vendor's desire for healthy, long-term relationships. In the context of technology, the vendor's response incorporates desired technologies and methods.

Acceptable: The vendor's response communicates a similar vision of customer service, and the vendor's desire for satisfactory long-term relationships. However, the answer could be improved. In the context of technology, the vendor's response incorporates some desired technologies and methods. However, the answer could be improved.

Unfavorable: The vendor's response does not communicate a similar vision of customer service or a desire for long-term relationships. In the context of technology, the vendor's response does not incorporate desired technologies or methods. The County believes substantial improvements are needed.

Qualitative Questions:

1. What advice do you provide to governments selecting a new system?
2. What are the two most important attributes of a technology partner?
3. What is your organization's employee retention strategy?
4. What tools do you employ to accomplish your employee retention strategy?
5. Explain your customer support strategy.
6. Describe your marketing niche.
7. Where does the Vendor fit in the market place, and what are the Vendor's market share goals? Describe your long-term and short-term strategies to achieve your goals.

8. What percentage of your U.S. clients are cities and counties? What percentage of your client base is governmental?
9. What percentage of your earnings is used for research and development?
10. What level of continued investment is required to stay current with new technology? Historically, what have long-time clients paid to migrate from legacy platforms (such as AS400) to newer platforms (such as Windows Server)?
11. How can County of Inyo users customize your applications?
12. How are your applications integrated? Were the applications built together or acquired and integrated?
13. Can data be easily imported/exported between the Vendor's applications and Microsoft productivity applications?
14. Describe your recommended test environment.
15. Describe your recommended training environment.
16. List certifications or endorsements from leading technology companies.
17. Describe the training made available to the County's in-house system administrators.
18. What application and technical documentation do you provide to our users and administrators?
19. What happens when a customer requests an enhancement?
20. How much have the Vendor's support and maintenance fees increased during recent years? Detail the last five years.
21. Please describe a recent user group meeting.
22. After the new system is installed, how can you assist the County, if the County should decide to pursue e-Government?
23. Describe general file maintenance and tools provided to accomplish file maintenance.

Proposal Section 12: Respond to Functional/Technical Requirements

Submitted proposals will undergo several stages of evaluations. During the initial evaluation, the subject matter experts analyze each vendor's responses to the functional and technical requirements. Every vendor will respond to the questionnaire using the following codes:

Y = Yes, Provided: Full capability is currently provided as a standard feature of the baseline software as provided through setup and configuration.

R = Provided by Reporting Tool: The proposed software does not currently provide the function as stated, but can be provided through the use of reporting tools provided by the vendor.

F = Future feature which will be available within one year: The proposed software does not currently provide the function as stated, but the vendor plans to add the function within one year of software's purchase.

M = Modification Required: The proposed software does not currently provide the function as stated, but can be modified to include the function at an additional cost. Provide cost proposal.

T = Third-party Software Required: The proposed software does not currently provide the function as stated, but can be provided through the use of third-party software selected by the vendor.

N = Not Provided: The proposed software does not provide the function and cannot be modified to provide the function.

The functional and technical requirements were provided by subject matter experts in each area (Assessment, Auditing, Collections) independently. As a result, the vendor may recognize overlap in the functional and technical requirements listed, but should respond to each item as a unique item.

FUNCTIONAL AND TECHNICAL REQUIREMENTS

Respondent should populate the "Provided" column with one of the following values:

- Y Yes, provided
- R Provided through included reporting tool
- F Future feature, available within one year
- M Not provided. System could be modified at customer cost
- T Not provided. May be provided through use of third party solution
- N Not provided.

Use Comments column for further clarification

Reference	ID	Requirement	Provided	Comments
General	1	Ability to export all reports to Excel		
General	2	Ability to customize reports		
General	3	System access permissions (security) can be managed by function and user role		
General	4	Ability to add/change/delete users and user security		
General	5	External system access complies with County security practices		
General	6	Capability to exchange data directly between core systems		
General	7	Capability to exchange data via batch file processing		
General	8	Capability to exchange data via batch file processing though an automated, scheduled process		
General	9	Capability to exchange data via File Transfer Protocol		

General	10	Capability to respond to interactive voice requests		
General	11	Pubic facing portal allowing query and display of related information such a parcel records and document images		
General	12	Ability to add/change/delete workflows		
General	13	Workflow notifications are delivered via email		
General	14	Workflow notifications are delivered via system pop-up messages		
General	15	Workflow notifications are delivered via flags/icons in system		
General	16	Ability to add/change/delete workflow workgroups		
General	17	Ability to add/change/delete user workflow roles		
General	18	Ability to add/change/delete workflow queues		
General	19	Ability to add/change/delete workflow rules		
General	20	Ability for all users in a given workflow group to view status of all workflow items in the group		
General	21	Ability to dynamically re-route workflow items		
General	22	Ability to take action on workflow items individually or by batch (when appropriate)		
General	23	Ability to review status of all workflow items regardless of group when user has proper security		
General	24	Ability to generate reports of workflow activity		
Assessor	25	System tracks Secured roll properties		
Assessor	26	System tracks building permits		

Assessor	27	System tracks Secured roll property ownership		
Assessor	28	System tracks property characteristics		
Assessor	29	System tracks mobile homes		
Assessor	30	System tracks Secured roll tax exemptions		
Assessor	31	System tracks Secured roll possessory interest		
Assessor	32	System retains and reports Secured roll property characteristics at date of sale uniquely by sale		
Assessor	33	Digital/digitized drawings can be associated with a given Secured roll property and can be electronically retrieved/displayed		
Assessor	34	Digital/digitized pictures can be associated with a given Secured roll property and can be electronically retrieved/displayed		
Assessor	35	Digital/digitized deed images can be associated with a given Secured roll property and can be electronically retrieved/displayed		
Assessor	36	Digital/digitized miscellaneous images can be associated with a given Secured roll property and can be electronically retrieved/displayed		
Assessor	37	Ability to choose from pre-established text messages that will print on the roll		
Assessor	38	System tracks Unsecured roll mining claims		
Assessor	39	System tracks Unsecured roll watercraft		
Assessor	40	System tracks Unsecured roll aircraft		
Assessor	41	System tracks sales of Unsecured roll properties		
Assessor	42	Digital/digitized drawings can be associated with a given Unsecured roll property and can be electronically retrieved/displayed		
Assessor	43	Digital/digitized pictures can be associated with a given Unsecured roll property and can be electronically retrieved/displayed		

Assessor	44	Digital/digitized deed images can be associated with a given Unsecured roll property and can be electronically retrieved/displayed		
Assessor	45	Digital/digitized miscellaneous images can be associated with a given Unsecured roll property and can be electronically retrieved/displayed		
Assessor	46	Ability to generate notice of supplemental assessment		
Assessor	47	Ability for Assessor to extend Supplemental roll electronically (integrated within the system) to the Auditor's office at least monthly		
Assessor	48	System identifies Supplemental roll items requiring proration by the County (second event precedes billing of first event)		
Assessor	49	Ability to generate business property statements (including prior year's reported data)		
Assessor	50	Ability to add/change/delete trend and deprivation factors for business personal property		
Assessor	51	Ability to electronically file business property statements in compliance with Computer Assisted Assessment standards		
Assessor	52	System automatically applies personal property value to Secured or Unsecured roll as appropriate		
Assessor	53	Ability to generate roll change history report showing a minimum history of four years		
Assessor	54	Ability to generate notice of changed assessment		
Assessor	55	Ability to generate notice of proposed escape assessment (using state form or compliant with state reporting requirements)		
Assessor	56	Ability to generate notice of enrollment of escape assessment (using state form or compliant with state reporting requirements)		
Assessor	57	Ability to generate disaster relief notice		
Assessor	58	Ability to generate labels for hard copy roll		
Assessor	59	Ability to generate mobile home park list reports		
Assessor	60	Ability to generate possessory interest site list reports		

Assessor	61	Ability to generate 60/90 reports compliant with state reporting requirements		
Assessor	62	Ability to generate railroad sales study reports compliant with state reporting requirements		
Assessor	63	Ability to generate homeowner and veteran reports compliant with state reporting requirements		
Assessor	64	Ability to generate notice of value cards		
Assessor	65	Ability to generate Proposition 8 notice of value cards including Factor Based Year Value information and current market value		
Assessor	66	Ability to generate roll summary/recap reports		
Assessor	67	Ability to generate reports of roll totals, new construction counts and sales totals that comply with state reporting requirements		
Assessor	68	Ability to generate a hard copy of a given roll		
Assessor	69	Ability to print labels		
Assessor	70	Ability to generate reports of watercraft		
Assessor	71	Ability to generate reports of aircraft		
Assessor	72	Ability to generate reports of exemptions		
Assessor	73	Ability to generate business property statements		
Assessor	74	Ability to generate discharge notification forms		
Assessor	75	Ability to electronically export any given roll		
Assessor	76	System supports Consumer Price Index valuation method		
Assessor	77	System supports Phillips Factor valuation method		

Assessor	78	Ability to clear exemptions by exemption code		
Assessor	79	System support data entry by bar code reader		
Assessor	80	Ability to generate documents that include bar codes		
Assessor	81	System is compliant with Proposition 8 requirements		
Assessor	82	System accommodates and tracks assessment appeals		
Assessor	83	System tracks due dates for Change of Ownership		
Assessor	84	System tracks due dates for Parent/Child claims		
Assessor	85	System tracks due dates for calamity claims		
Assessor	86	System supports query function		
Assessor	87	System has built-in drawing/diagraming functionality		
Assessor	88	Public facing portal as appropriate for Assessor related information		
Assessor	89	Ability to process roll changes via batch file		
Assessor	90	System supports computer assisted mass appraisal		
Assessor	91	Portable appraising module		
Assessor	92	Integrates with Geographical Information System (ESRI)		
Auditor	93	Assessor's Unsecured roll is extended electronically (integrated within the system) to the Auditor's office		
Auditor	94	Ability to update penalty and interests rates for Unsecured roll		

Auditor	95	Ability to Apply previous tax year's Secured rates to current tax year's Unsecured rates		
Auditor	96	Ability to add/change/delete Tax Rate Area		
Auditor	97	Ability to re-calculate Unsecured tax charges on demand		
Auditor	98	Ability to discharge Unsecured tax bills having a value less than a given amount		
Auditor	99	Ability to compute Final Unsecured roll and extend electronically (integrated within the system) to the Tax Collector's office		
Auditor	100	Ability to calculate debt service tax rates		
Auditor	101	Ability to calculate VLF Swap		
Auditor	102	Ability to calculate ERAF Shift		
Auditor	103	Ability to calculate AB8 rates		
Auditor	104	Ability to calculate Unitary rates		
Auditor	105	Ability to calculate ERAF with Unitary		
Auditor	106	Assessor's Secured roll is extended electronically (integrated within the system) to the Auditor's		
Auditor	107	Ability to update penalty and interests rates for Secured roll		
Auditor	108	Ability to apply calculated debt service rates to Secured roll		
Auditor	109	Ability import the Utility roll from the Board of Equalization		
Auditor	110	Ability to import special assessments from multiple districts		
Auditor	111	System provides an audit report of special assessments import, minimally reporting parcel count and parcel charge		

Auditor	112	Ability to re-calculate Secured tax charges on demand		
Auditor	113	Ability to discharge Secured tax bills having a value less than a given amount		
Auditor	114	Ability to compute Final Secured roll and extend electronically (integrated within the system) to the Tax Collector's office		
Auditor	115	Ability for Assessor to extend Supplemental roll electronically (integrated within the system) to the Auditor's office at least monthly		
Auditor	116	Ability to calculate proration on Supplemental roll		
Auditor	117	Ability to adjust proration on Supplemental roll		
Auditor	118	Ability to discharge Supplemental tax bills having a value less than a given amount		
Auditor	119	Ability to calculate refunds from negative Supplemental assessments		
Auditor	120	Ability to compute Supplemental roll batch and extend electronically (integrated within the system) to the Tax Collector's office		
Auditor	121	Ability for Assessor to extend roll changes to the Auditor's Office		
Auditor	122	Ability to import roll changes from Board of Equalization		
Auditor	123	Ability to import roll changes from Special Districts		
Auditor	124	Workflow alerting need to review and apply roll changes		
Auditor	125	Ability to calculate additional tax charges, penalties and interest resulting from roll changes		
Auditor	126	Ability to apply additional tax charges, penalties and interest resulting form roll changes.		
Auditor	127	Ability to extend Auditor identified refunds to Tax Collector for approval and release - via Workflow		
Auditor	128	Ability to calculate interest on refunds as necessary		

Auditor	129	Ability to apply interest to refunds as necessary		
Auditor	130	Ability to discharge tax bills having a value less than a given amount resulting from a roll change		
Auditor	131	Ability to calculate total tax charge multiplied by AB8 Rates		
Auditor	132	Ability to calculate total Unitary tax multiplied by Unitary allocation rates		
Auditor	133	Ability to multiply 100% of taxes billed by Teeter distribution rates		
Auditor	134	Ability to automatically distribute debt service requirement for tax year based on projected tax rate		
Auditor	135	Ability to apply Special District assessment fees that were charged to taxpayer in the tax year		
Auditor	136	Ability to add/change/delete Tax Administration Fee		
Auditor	137	Ability to apply the Tax Administration Fee to distributions		
Auditor	138	Ability to add/change/delete Special District Administration Fee		
Auditor	139	Ability to apply the Special District Administration Fee to distributions		
Auditor	140	Ability to calculate and apply prior year Unsecured taxes that were prior year Secured and distributed via Teeter method (positive and negative)		
Auditor	141	Ability to calculate and apply roll changes and refunds that will increase and decrease taxes allocated		
Auditor	142	Ability to distribute taxes according to given Teeter Plan percentages: Secured tax distribution allocated to districts		
Auditor	143	Ability to distribute taxes according to given Teeter Plan percentages: Unitary tax distribution allocated to districts		
Auditor	144	Ability to reduce and increase distribution resulting from roll changes and refunds		
Auditor	145	Ability to distribute and report on penalties and costs to general fund or tax loss service		

Auditor	146	Ability to calculate the amount debt service on Unsecured roll changes and refunds		
Auditor	147	Ability to generate report of Unsecured taxes collected, excluding Unsecured taxes collected relative to airplanes		
Auditor	148	Ability to calculate total Unsecured collections multiplied by AB8 rates (excluding collections relative to airplanes)		
Auditor	149	Ability to generate report of Unsecured taxes collected, including only Unsecured taxes collected relative to airplanes		
Auditor	150	Ability to allocate airplane collections by Tax Rate Area		
Auditor	151	Ability to distribute airplane collections to county, city and school districts only		
Auditor	152	Ability to generate report of penalties, interest and costs for Unsecured roll		
Auditor	153	Ability to apply Unsecured distributions on demand (multiple times each year)		
Auditor	154	Ability to apply ADA rates to current year AB8 rates to calculate Supplemental allocation rates		
Auditor	155	Ability to calculate the amount debt service on Supplemental roll changes and refunds		
Auditor	156	Ability to generate report of Supplemental taxes collected		
Auditor	157	Ability to apply Supplemental Administration Fee on collections prior to their reduction by refund		
Auditor	158	Ability to distribute Supplemental collections net of refunds and Administration Fee multiplied by AB8 rates adjusted by ADA rates		
Auditor	159	Ability to generate report of penalties, interests and costs for Secured roll		
Auditor	160	Ability to apply Supplemental distributions on demand (multiple times each year)		
Auditor	161	Ability to generate report showing fully redeemed Secured Redemption roll parcels		
Auditor	162	Ability to generate report of penalties, interests and costs for Secured Redemption roll		

Auditor	163	Ability to generate report showing fully redeemed Unsecured Redemption roll parcels		
Auditor	164	Ability to apply current year AB8 rates to Unsecured Redemption roll collections		
Auditor	165	Ability to generate a report of AB8 distributions for Unsecured Redemption roll		
Auditor	166	Ability to generate report of penalties, interests and costs for Unsecured Redemption roll		
Auditor	167	Ability to report and pay State portion Redemption Fee, Semi Annual Settlement Form No. COL-225 fine for noncompliance		
Auditor	168	Ability to report J29 revised estimate of property tax revenue for schools state form J-29-B and C P-2		
Auditor	169	Ability to generate CCFS 329 revised estimate of property tax revenue for Community Colleges State Form CCFS-ERAF and CCFS-329-E		
Auditor	170	Ability to report local assessed valuation of each city and unincorporated State Form BOE-822		
Auditor	171	Ability to report J29 actual property taxes distributed to schools for PY State Form J-29-B and J-29-C		
Auditor	172	Ability to generate CCFS 329 report of actual property taxes distributed to Community Colleges State Form CCFS-ERAF and CCFS-329-E		
Auditor	173	Ability to generate annual claim for homeowners form		
Auditor	174	Ability to generate Annual State Controller report of taxes levied all jurisdictions SCO form LGRS 200 thru 206		
Tax Collector	175	Public facing portal for application submission		
Tax Collector	176	Public facing portal for forms submission		
Tax Collector	177	Public facing portal allowing printing of forms		
Tax Collector	178	Public facing portal allowing printing of bills		
Tax Collector	179	Public facing portal allowing remittance payment via third party processor		

Tax Collector	180	Public facing portal allowing retrieval of payment history per parcel		
Tax Collector	181	System can deliver relevant documents to tax payers via email		
Tax Collector	182	Tax rolls extended electronically in accordance with California Revenue & Taxation Code		
Tax Collector	183	Secured roll (including Unitary) supports assignment of CORTAC information		
Tax Collector	184	Secured roll (including Unitary) accepts name/address updates		
Tax Collector	185	Secured roll (including Unitary) reporting in accordance with California Revenue & Taxation Code		
Tax Collector	186	Creation of Secured roll (including Unitary) tax bills		
Tax Collector	187	Unsecured roll accepts name/address updates		
Tax Collector	188	Unsecured roll reporting in accordance with California Revenue & Taxation Code		
Tax Collector	189	Creation of Unsecured roll tax bills		
Tax Collector	190	Supplemental roll accepts name/address updates		
Tax Collector	191	Supplemental roll reporting in accordance with California Revenue & Taxation Code		
Tax Collector	192	Creation of Supplemental roll tax bills		
Tax Collector	193	System determines appropriate action for roll change assessment records (all rolls)		
Tax Collector	194	Direct levy billing accommodated for roll changes (all rolls)		
Tax Collector	195	Penalty billing accommodated for roll changes (all rolls)		
Tax Collector	196	Can generate new billings resulting from roll changes (all rolls)		

Tax Collector	197	Allows for corrections of redemption billing		
Tax Collector	198	Accommodates application of payments when a roll change (all rolls) is cancelled		
Tax Collector	199	Creates refund records when a roll change (all rolls) is cancelled		
Tax Collector	200	Cancellation of property tax bill (Secured)		
Tax Collector	201	Re-instatement of property tax bill (Secured)		
Tax Collector	202	Accommodates application of late charges to re-instated property tax bill (Secured)		
Tax Collector	203	Cancellation of property tax bill (Unsecured)		
Tax Collector	204	Re-instatement of property tax bill (Unsecured)		
Tax Collector	205	Accommodates application of late charges to re-instated property tax bill (Unsecured)		
Tax Collector	206	Cancellation of property tax bill (Supplemental)		
Tax Collector	207	Re-instatement of property tax bill (Supplemental)		
Tax Collector	208	Accommodates application of late charges to re-instated property tax bill (Supplemental)		
Tax Collector	209	Cancellation of property tax bill (Abstract Unsecured)		
Tax Collector	210	Re-instatement of property tax bill (Abstract Unsecured)		
Tax Collector	211	Accommodates application of late charges to re-instated property tax bill (Abstract unsecured)		
Tax Collector	212	Cancellation of property tax bill (Redemptions)		
Tax Collector	213	Re-instatement of property tax bill (Redemptions)		

Tax Collector	214	Accommodates application of late charges to re-instated property tax bill (Redemptions)		
Tax Collector	215	Tax collection/payment processing		
Tax Collector	216	Fee collection/payment processing		
Tax Collector	217	Tracks/retains payee identification		
Tax Collector	218	Alerts Over/Short payment instances		
Tax Collector	219	Over/Short reporting		
Tax Collector	220	Accommodates payment reversal		
Tax Collector	221	Creates refund records as a result of payment reversal		
Tax Collector	222	Creates notice as a result of payment reversal		
Tax Collector	223	Accommodates addition of charges: penalties		
Tax Collector	224	Accommodates addition of charges: miscellaneous costs		
Tax Collector	225	Accommodates addition of charges: interest		
Tax Collector	226	Creates notices of additional charges due		
Tax Collector	227	Accommodates partial payments		
Tax Collector	228	Accommodates adjustments (bankruptcy)		
Tax Collector	229	Accommodates adjustments (Public Acquisition)		
Tax Collector	230	Accommodates parcel splitting		

Tax Collector	231	Provide Manufactured homes-Estimated demands		
Tax Collector	232	Manages Unsecured bulk transfers		
Tax Collector	233	Refunds overpayments and duplicate payments on all tax rolls		
Tax Collector	234	Ability to manually issue refund		
Tax Collector	235	Ability to manually reapply a refund		
Tax Collector	236	Ability to automatically issue refund		
Tax Collector	237	Tracks reason for refund		
Tax Collector	238	Produces reason-specific refund letters		
Tax Collector	239	Calculates interest on refund due		
Tax Collector	240	Creates and tracks refund records		
Tax Collector	241	Provides refund reporting		
Tax Collector	242	Manages delinquent installments of current year bills		
Tax Collector	243	Ability to add/change/delete penalty percentage		
Tax Collector	244	Ability to add/change/delete miscellaneous costs		
Tax Collector	245	Ability to add/change/delete interest rate amounts		
Tax Collector	246	Accommodates varying amounts on per-parcel basis		
Tax Collector	247	Ability to extend delinquent dates for individual bills		

Tax Collector	248	Generates delinquency notices		
Tax Collector	249	Tracks and provides reporting on delinquencies		
Tax Collector	250	Enrolls unpaid current year taxes to the redemption roll electronically		
Tax Collector	251	Accommodates management of defaulted accounts		
Tax Collector	252	Ability to create new default accounts		
Tax Collector	253	Ability to add bills to default accounts		
Tax Collector	254	Ability to split default accounts		
Tax Collector	255	Ability to combine default accounts		
Tax Collector	256	Allow installments splits for bankruptcy		
Tax Collector	257	Initiate and manage default payment plans		
Tax Collector	258	Initiate and manage reinstatement payment plans		
Tax Collector	259	System calculates redemption amounts		
Tax Collector	260	Manage and link voided parcels		
Tax Collector	261	Automaticlly posts payments		
Tax Collector	262	Automatically posts reversals		
Tax Collector	263	Generates letters and notices appropriate to specific Redemption roll circumstances		
Tax Collector	264	Tracks and provides reporting on redemption roll activities		

Tax Collector	265	Management of Tax Liens (All Rolls) including release of liens and extensions of liens		
Tax Collector	266	Accommodates summary judgments		
Tax Collector	267	Accommodates seizures		
Tax Collector	268	Accommodates sales		
Tax Collector	269	Accommodates Writs of execution		
Tax Collector	270	Accommodates Franchise Tax Board holds and releases		
Tax Collector	271	Accommodates Department of Motor Vehicles holds and releases		
Tax Collector	272	Accommodates FAA holds and releases		
Tax Collector	273	Generates letters and notices appropriate to specific Unsecured roll circumstances		
Tax Collector	274	Electronically enrolls unpaid current year secured taxes/unsecured taxes on the current year secured and supplemental rolls to the defaulted roll		
Tax Collector	275	Manages parcels that will be or are subject to the Tax Collector's Power to Sell (PTS) and are subsequently sold at auction		
Tax Collector	276	Identifies parcels that are pending or active PTS		
Tax Collector	277	Ability to add/change/delete PTS accounts		
Tax Collector	278	Generates letters and notices appropriate to specific PTS circumstances		
Tax Collector	279	Accommodates creation of PTS related worksheets		
Tax Collector	280	Accommodates creation of mandated publications		
Tax Collector	281	Generates necessary electronic files for third party vendors		

Tax Collector	282	Tracks and provides reporting relative to Tax Defaulted Land/Power to Sell activities		
Tax Collector	283	Manage excess proceeds from Tax sales		
Tax Collector	284	Generates letters and notices appropriate to specific Tax sales circumstances		
Tax Collector	285	Automated distribution of excess proceeds		
Tax Collector	286	Accommodates creation of claim forms		
Tax Collector	287	Accommodates creation of claim files		
Tax Collector	288	Tracks and provides reporting relative to Tax sale activities		
Tax Collector	289	Ability to add/change/delete bankruptcy information		
Tax Collector	290	Accommodates bankruptcy claims processing		
Tax Collector	291	Generates letters and notices appropriate to specific bankruptcy circumstances		
Tax Collector	292	Tracks and provides reporting relative to bankruptcy activities		
Tax Collector	293	Processes manufactured homes clearance request electronically between Assessor and Tax Collector		
Tax Collector	294	Calculates manufactured homes estimated taxes for demands		
Tax Collector	295	Creates data file for manufactured homes claims		
Tax Collector	296	Generates letters and notices appropriate to specific manufactured homes circumstances		
Tax Collector	297	Tracks and provides reporting relative to manufactured home activities		
Tax Collector	298	Manages developer's subdivision tax guarantee and surety bond GC §66493		

Tax Collector	299	Ability to add/change/delete tax guarantee or tax surety bond record		
Tax Collector	300	Creates data file for tax guarantee and surety bond claims		
Tax Collector	301	Generates letters and notices appropriate to specific tax guarantee and surety bond circumstances		
Tax Collector	302	Relevantly links tax guarantee information		
Tax Collector	303	Relevantly links surety information		
Tax Collector	304	Tracks and provides reporting relative to tax guarantee and surety activities		
Tax Collector	305	Manages estimated taxes for bulk transfer sale of a business		
Tax Collector	306	Calculates estimated taxes on bulk transfer sales		
Tax Collector	307	Ability to add/change/delete estimated tax information on bulk transfer sales		
Tax Collector	308	Generates letters and notices appropriate to specific bulk transfer sale circumstances (holds on liquor license)		
Tax Collector	309	Tracks and provides reporting relative to bulk transfer sale activities		
Tax Collector	310	Identifies bills requested and paid by third party entities via electronic files (CORTAC)		
Tax Collector	311	Generates necessary (CORTAC) files to requesting parties		
Tax Collector	312	Manages Agent and Branch ID numbers		
Tax Collector	313	Ability to add/change/delete agent and branch information		
Tax Collector	314	Generates letters and notices appropriate to specific agent circumstances		
Tax Collector	315	Manages CORTAC related tax bill requests and tax bill printing		

Tax Collector	316	Ability to process CORTAC files submitted by third parties		
Tax Collector	317	Ability to add/change/delete CORTAC related requests		
Tax Collector	318	Links Agent/Branch ID to bills as they are created for given parcels listed in request files		
Tax Collector	319	Ability to permit and suppress printing of bills in the files request		
Tax Collector	320	Ability to load, edit, balance and process multiple electronic payment files		
Tax Collector	321	Payments in processed CORTAC file are posted to corresponding accounts		
Tax Collector	322	Agent/Branch information is assigned to paid bill		
Tax Collector	323	Creates files of records extracted from tax rolls		
Tax Collector	324	Maintains a history of agent requests and payment information		
Tax Collector	325	Identifies taxpayers whose aggregate bill exceeds an amount requiring EFT payments as defined in R&T code		
Tax Collector	326	Manages reports, letters, statements and forms including miscellaneous correspondence for CORTAC agencies		
Tax Collector	327	Ability to add/change/delete templates, forms and overlays		
Tax Collector	328	Ability to direct output to printers or files		
Tax Collector	329	Access, report and update information for prior fiscal years		
Tax Collector	330	Re-generate returned correspondence using updated contact information		
Tax Collector	331	Retains updated contact information		
Tax Collector	332	Ability to store and retrieve reports, letters, statements, bills and forms for a time specified by regulation (currently a minimum of 12 years)		

Tax Collector	333	Ability to archive all tax rolls annually		
Tax Collector	334	Documents retention by parcel/account		
Tax Collector	335	Ability to print prior year tax billings		
Tax Collector	336	Vendor will convert and merge all existing archived records into newly implemented system prior to go-live		
Tax Collector	337	Vendor will convert and merge all existing active records into newly implemented system prior to go live.		

COUNTY OF INYO

REQUEST FOR PROPOSAL

RFP-PTMS13

PROJECT MANAGEMENT SERVICE FOR THE INTEGRATED PROPERTY TAX MANAGEMENT SYSTEM

APRIL 2012

SUBMIT PROPOSALS TO

CLERK OF THE BOARD
224 NORTH EDWARDS STREET
P.O. DRAWER N
INDEPENDENCE, CALIFORNIA 93526

1. Introduction

The County of Inyo is initiating a project intended to result in the implementation of an integrated property tax management system (PTMS). In an effort to ensure a successful implementation, the County of Inyo is soliciting proposals from interested third parties who have the experience and can provide the services described in this Request for Proposal.

2. Background

The County of Inyo is interested in contracting project management services to assist with oversight, coordination and guidance to the project team relative to vendor and software selection and system implementation.

3. Scope of Services

- Provide general oversight and guidance to project team
- Coordinate activities among project participants
- Establish team roles and responsibilities
- Establish and oversee management of project plan/timeline
- Identify project risks and/or gaps, contingency plans and mitigation strategies
- Mediate team conflict or differences of opinion
- Monitor project status and regularly report project status to project team
- Facilitate communication among project participants
- Provide specific guidance and facilitation regarding:
  - Vendor/system selection
  - Contract negotiations
  - Installation
  - Configuration
  - Data collection and conversion
  - Process re-engineering
  - Process/functional testing
  - Training
  - Production cutover

4. Deliverables

The County expects project implementation to commence in January 2013. The "go-live" date is projected for July 2014. The County expects this long-term project to consist of at least the following components:

- Vendor/software selection
- Contract negotiations
- Pre-implementation planning
- Hardware installation
- Software installation
- Data conversion
- System configuration
- Business process development
- Training
- Parallel processing
- "Go-Live"

Services provided by the selected project manager are expected to span the entire duration of the project; the project team's present working timeline is:

Issue RFP to potential bidders	May 1, 2012
Notice of Intent to Bid Due	May 30, 2012
Proposals Due	June 29, 2012
Selection of Finalist	September 3, 2012
Contract Negotiations Completed	September 28, 2012
Contract Awarded	October 2, 2012
Implementation Begins	January 2013
Anticipated Cut-Over/Go-Live Date	July 2014

5. Project Team

Name	Dept	Job	Project Role
Alisha McMurtrie	Treasurer/Tax Collector	Treasurer/Tax Collector	Project Sponsor
Leslie L. Chapman	Auditor-Controller	Auditor-Controller	Member
Tom Lanshaw	Assessor	Assessor	Member
Brandon Shults	Information Services	IT Director	Member
Diane Fortney	Treasurer/Tax Collector	Asst. Treasurer/Tax Collector	Member
Amy Shepherd	Auditor-Controller	Management Analyst	Member
Mike Baffrey	Information Services	Network & Operation Analyst	Member

6. Project Assumptions

- The Project Manager and other staff will create/provide the appropriate procedures, guidelines, standards, reference materials, and system/application documentation.
- The Project Manager will be provided access to the appropriate personnel (management, technical, subject matter expertise, etc.) necessary to fulfill the project requirements.
- The Project Manager must have demonstrated knowledge and experience with all aspects of enterprise system implementation.
- The successful bidder will be required to execute a contract for services as approved by the County Counsel and County Risk Manager.

7. Bid Preference/Instructions

- Proposal Cost
  - Those submitting proposals do so entirely at their expense.
- Basis of Selection
  - No commitment will be made to select a consultant solely on the basis of price. The primary basis for selection will be the proposed consultant's ability to meet the County's business needs; however, weight will also be given to the consultant's reputation and ability to be a strong business partner.
- Required Documentation
  - The required documentation listed below represents critical information that the perspective consultant must provide.
    - The consultant must demonstrate prior experience in project management in their resume and references.

- The consultant must provide a schedule of fees for their services that includes:
- Fixed fee or hourly rate.
- Schedule for billing increments: monthly, per milestone or per phase.
- Travel reimbursement rates.

- The consultant must provide a statement that will address his or her availability to start the project. The County of Inyo is interested in working with the consultant immediately following successful contract negotiations.

- Proposal Evaluation
  - A team selected by the County of Inyo will evaluate all proposals deemed responsive to the request. The initial evaluation will consider the submitted responses and provided references only. The proposals will be ranked based on an analysis conducted by the evaluation team.
  - Discussions may take place with the finalists to clarify the proposal and obtain a best and final offer. Any award granted will be granted to the respondent proposing the best solution for the County as determined solely by the County.
- Additional Information
  - If the consultant requires additional information to complete the proposal, they may request the information in writing via email to amcmurtrie@inyocounty.us. Please note this should not be viewed as a sales presentation opportunity.
- Project Contact
  - Alisha McMurtrie – Treasurer/Tax Collector
    County of Inyo
    P.O. Drawer O
    Independence, CA. 93526

    Phone: 760-878-0312
    Fax: 760-878-0311
    Email: amcmurtrie@inyocounty.us

8. Submission Requirements

- An original and three hard copies along with three CD-ROMs of the completed proposal must be submitted:
  - If by U.S. Mail to: *
    Inyo County Board Clerk
    RFP-PTMS13
    P.O. Box Drawer N
    Independence, CA 93526

  - If by non U.S. Mail:*
    Inyo County Board Clerk
    RFP-PTMS13
    224 North Edwards Street
    Independence, CA 93526

(US Post Office does not deliver to street address in Independence)

Submissions must be received no later than 3:30 PM, Friday, May 18, 2012. The County reserves the right to deem respondent non-responsive if submissions are not received by the date and time stipulated. It is the responsibility of the respondent to ensure delivery by the date and time stipulated; the County reserves the right to discount failure of the delivery mechanism utilized by the respondent but generally will not discount failure of the delivery mechanism utilized by the respondent.

AGENDA REQUEST FORM

BOARD OF SUPERVISORS
COUNTY OF INYO

For Clerk's Use Only:
AGENDA NUMBER
13

☐ Consent ☒ Departmental ☐ Correspondence Action ☐ Public Hearing

☐ Scheduled Time for XX a.m. ☐ Closed Session ☐ Informational

FROM: Inyo County Planning Department

FOR THE BOARD MEETING OF: April 17th, 2012

SUBJECT: Cost, Energy and Service Efficiencies Action Plan: DRAFT Energy Action Plan template.

DEPARTMENTAL RECOMMENDATION:

Request the Board of Supervisors: Provide input and authorize staff to use and distribute the DRAFT Energy Action Plan template.

SUMMARY DISCUSSION:

The CESEAP promotes long-term energy efficiency and is expected to result in cost savings to the County, other entities in the County, and its citizens. The project involves discrete tasks and administrative activities specified by Southern California Edison, who awarded the project to the County to perform this work. To date, staff has work with Southern California Edison and the Salas O'Brien consultant team to complete the first major milestones. This included seven reports that provided the foundation for all future work[1]. County and Salas O'Brien staff also chose a utility manager system. The EPA's, Energy Star Portfolio Manager was chosen due to it being free and easy to use. About two-year's worth of the County's electricity and propane gas usage data has been entered into it. Preliminary results show that three county facilities qualify to apply for an Energy Star rating. An Energy Star rating is achieved when a building is in the top 75% of energy use performance of similar building types nationwide. They are the water department building in Independence, the health and human services and probation building in Bishop and the airport hangers 1,4,6,7 and 8 in Bishop. The lowest performers are the juvenile detention center and the jail. The Portfolio Manager results are currently being refined and a comprehensive energy use report will be completed by the Salas O'Brien team. These results will also be used to set benchmarks for energy use reduction.

Currently a DRAFT Energy Action Plan template has been developed for the County's final Energy Action Plan and for other local jurisdictions to use. The Energy Action Plan template provides a comprehensive outline to create an Energy Action Plan. It includes sections for:

- Any history the organization has for energy planning.
- What other agencies have done regarding energy planning.
- The general approach the organization plans to take for their particular Energy Action Plan.
- An evaluation of the organization's current energy use.
- The utility manager system that will/has been used to evaluate current energy consumption.
- Energy consumption by facility.
- Target energy reduction strategies and policies.
- Strategies for outreach to other organizations and citizens.
- Action steps including policies and implementation strategies.

- Funding opportunities.
- Tracking and reporting guidelines for continued progress.
- An appendix with energy programs and policies that other jurisdictions have successfully adopted.

The DRAFT Energy Action Plan template has been sent to the stakeholders for review and comment. The stakeholders had no substantive comments. Staff held a workshop with the Planning Commission on March 27, 2012 to review the Energy Action Plan template; they also had no substantive comments.

ALTERNATIVES:
Direct staff to incorporate an alternative report format and/or alternative report sections.

OTHER AGENCY INVOLVEMENT:
Other local agencies are participating as stakeholders in the process and will use the Energy Action Plan template to develop their own Energy Action Plans.

FINANCING:
This project is being funded by Southern California Edison under the auspicious of the California Public Utilities Commission.

[1] The seven reports and all other information relating to the project can be found on the County's website at: http://inyoplanning.org/CostEnergyServEfficActionPlan.htm.

APPROVALS	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS *(Must be reviewed and approved by county counsel prior to submission to the board clerk.)*
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS (M*ust be reviewed and approved by the auditor-controller prior to submission to the board clerk.)*
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.)

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received)

Date: 4-9-12

Attachments:
DRAFT Energy Action Plan template

(Organization Name)
Energy Action Plan

Approved on _____

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EXECUTIVE SUMMARY

[Insert Summary]

The *(organization name)* recognizes the cost of inefficient energy use; and the advantages associated with energy efficiency. We recognize that improvements in energy efficiency decrease organization and private energy costs (*which have a direct, positive impact on reducing greenhouse gasses) (optional).* The organization will leverage energy efficiency and conservation with the utility incentive programs available through: *List/insert programs and partners. Explore programs available through the electric, gas and propane utilities.*

This Energy Action Plan outlines the actions that this organization will take, in order to do our part on reducing energy use.

Optional: expand on:

- ✓ *Environmental Stewardship*
- ✓ *Saving energy and its relation to reducing greenhouse gas emissions.*
- ✓ *Leveraging on-going maintenance and construction projects with energy efficiency.*

*See **Appendix A**: City of Beaumont's Energy Action Plan, Executive Summary*

This document also serves as an educational tool that can be used by other organizations.

Note: This EAP should take substantial effort for the organization. The timeline should range from about ____ to ___ hours. This document also serves as an educational tool.
In determining the overall timeline, please take into consideration the time constraints of:

- ✓ *Draft, Distribute, and Finalize EAP*
- ✓ *Setup and data entry for Portfolio manager*
- ✓ *Evaluation of organization's buildings/facilities*
- ✓ *Identify projects & policies*
- ✓ *Board approval process*
- ✓ *Internal and public outreach*

	TASKS	2012												Hours	
	Quarter	J	F	M	A	M	J	J	A	S	O	N	D	Min	Max
1	**Energy Action Plan**	xxxxxxxxxxxxxxxxx													
2	Draft	xxxxxxx												80	160
3	Distribute			xxxx										40	60
4	Finalize			xxxxxxxxx										40	60
5	**Portfolio Manager Setup**	xxxxxx												80	160
6	**Evaluate Building(s)**		xxxxxxxx											40	240
7	**ID Projects & Policies**			xxxxxxxxx										40	96
8	**Approval Process**					xx								5	10
9	**Outreach**								xxxxxxx					10	12
													Totals	335	798

Note:
1. Hours estimated for task 7 are on a per building basis

SECTION 1 – INTRODUCTION

Purpose – The *(organization name)* will:

a. Reduce energy usage by _____% by the year *20__*.

b. *Deliver education and outreach to the community focusing on energy efficiency (optional).*

Energy Efficiency and Cost Savings

Reducing energy use in facilities can significantly reduce the cost to operate and maintain them. The Center for Sustainable Energy, California[1] states that the benefits of energy efficiency include:

- ✓ Reducing operating costs
- ✓ Lowering maintenance costs
- ✓ Extending the life of equipment
- ✓ Enhance indoor air quality

California has set state standards of energy efficiency through Title 24[2] but encourages local governments to exceed the required standards. The *(organization name)* has created a set of policies that focus on programs to promote energy and cost reductions throughout the *(organization).* Once these policies are approved by *(insert governing board applicable to the region)*, detailed implementation plans will be created along with distribution materials to inform internal and external stakeholders about the program and its associated impacts.

Expand on how the organization will get this document approved as a policy for their organization. Will it require approval by a board? How will it be distributed? Community outreach? How will the organization track its progress?

Optional: expand description to include areas of highest energy use and any other comments. See also ***Appendix B:*** *City of Irvine Energy Plan, Section 1- Introduction*

1.1 History of Energy Planning in *(organization name)*

General History – *Insert any historical activities, policies, actions or projects associated with energy efficiency in the organization (e.g. is energy efficiency mentioned in the General Plan? Do the planning or building departments have energy standards? Do Facilities and Operations have a history of obtaining energy incentives or rebates from the Utility?) Note: If there have been no activities, policies, actions or projects associated with energy efficiency in the organization, state that.*

[1] Energy efficiency, (n.d.). *California Center for Sustainable Energy.* Retrieved March 2, 2012, from http://energycenter.org/index.php/technical-assistance/energy-efficiency

[2] Title 24 is the California Building Standards code and is explained in greater depth later in this document.

Annual Energy costs - *Insert at least one year of gross annual electric and gas/propane cost for a selected building, or buildings for the organization. This effort, in and of itself can be time consuming, but it is critical to know how much energy is costing the organization.*

Table 1 shows the costs annual of energy for the organization broken into electricity and gas.

Table 1. Gross Annual Energy Cost for *(organization name)* *Name specific building or group of buildings to which this annual cost data applies*			
Year	**Electricity Costs**	**Gas** *(or propane)* **Costs**	**Total Energy Costs**
2009	$	$	$
2010	$	$	$
2011	$	$	$

Energy is purchased from the following entities as follows: *Identifying the entities who supply utilities such as power, gas, water, etc., who will also become the Project Partners in improving energy efficiency – (i.e. SCE, LADWP, etc.)*

- ✓ ___ provides electric utilities for *(organization name)*
- ✓ ___ provides gas utilities for the *(organization name)*
- ✓ ___ provides propane utilities for the *(organization name)*

Past Energy Efficiency Project 1 - *list any programs/projects implemented to reduce energy use.*

a. *General description (what it was, who was involved)*
b. *Implementation (how was this plan implemented? What were the steps)*
c. *Results (what did this project do to decrease energy use? Was it a success?)*

Past Energy Efficiency Project 2 - *continue for rest of past projects*

See also ***Appendix C:*** *Long Beach Sustainable City Action Plan, "A History of Leadership" for excellent examples of specific project activities.*

1.2 Other Agency Activities, Goals, and Standards

In addition to energy policies, standards and goals developed in this Energy Action Plan, there are numerous activities, goals and standards at the Federal, State, Local, and Utility level. Some of these include:

State Of California

- ✓ **Assembly Bill 32** encourages local governments to reduce GHG emissions to 1990 levels by 2020 (about 15% reductions). The California Air Resources Board (ARB) partnered with the California Climate Action Registry (CCAR), The Climate Registry (TCR), and Local Governments for Sustainability (ICLEI) to create a set of methodologies and data sources to

inventory GHG emissions and to quantify the impact of programs implemented by local governments.

- ✓ **Title 24** requirements were established to reduce energy consumption throughout California. This includes keeping equipment and technology updated to increase efficiency. Many local governments are establishing "reach codes" to exceed Title 24 Requirements by a certain percentage.

- ✓ **Senate Bill X 1-2** The California Renewable Energy Resources Act will require all California electricity providers to reach at least 33% renewable sources by 2020 while controlling how this will impact rates. This will involve placing limits on the cost of renewables. The bill will also "streamline" permitting for renewable energy projects.

Local Utilities

- ✓ **SCE** is in the process of conducting strategic plan activities in relation to energy efficiency specifically related to local governments. SCE is funding multiple projects throughout California to promote long-term, sustainable changes.

Local Agencies

- ✓ **County of Inyo's Cost, Energy, and Service Efficiencies Action Plan (CESEAP)** is a county wide program to conduct strategic plan activities centered on energy efficiency. The County is working with Southern California Edison (SCE), the Inyo Local Transportation Commission, the City of Bishop, the Great Basin Unified Air Pollution Control District, and many other groups. The goals of this program are to have local governments lead by example with their own facilities, and for the County to lead the community in creating programs for energy efficiency. The County will serve as a source of information and support throughout this process.

- ✓ **Mammoth Lakes Sustainable Communities Planning Grant & Incentives Program** will update the town's zoning code to incorporate the recent changes in the General Plan which encourage "smart growth and sustainability." Although this is in a separate county, Mammoth Lakes has adopted a procedure to allow for various incentives in exchange for provision of community benefits. Some incentives include financial incentives such as rebates of planning fees, incentives in regards concessions to requirements of building envelopes, height, and square footage.

Optional: take the time to review the above. In addition identify one or more additional other agency goals or standards that may impact the organization. See ***Appendix D:*** *Town of Apple Valley Introduction: Section C. California Law*

1.3 General Approach

After completing Table 1, summarize the steps that will be taken to implement the EAP. Who is this document written for? Who will be reviewing it?

Any Energy Action Plan requires a wide range of strategies to reach the intended goals. After reviewing the annual costs of the organization's facilities, the *(organization name)* planning department has decided to take the steps described below to reach our goals. This document will then be presented to the board for review. The document will either require further review or be adopted by the (organization)

The following steps, or approach, will result in reducing energy:

a. Implement Utility Manager System (Energy Star Portfolio Manager).
b. Create Baseline energy use.
c. Determine how and where energy is consumed throughout the organization.
d. Create specialized goals and programs based on the information found.
e. Develop policy to reach those goals.
f. Implement policy by obtaining board/organization approval. *Expand and describe how this will occur specific to the organization. Describe any outreach efforts.*
g. *Optional insert/add to above steps to fit specific organization needs i.e. increase building efficiency, reduce vehicle emissions, increase public outreach, etc.*

*Revisit **Appendix B**: City of Irvine Energy Plan, Section 1- Introduction, 1.3 The General Approach (p. 15).*

SECTION 2 – *(organization name)* ENERGY USE

The *(organization name)* will evaluate the level of current energy use at its facilities. This information will then be used to develop policies and implementation strategies to reduce *(organization name)* energy use. This section describes the process of acquiring past and current energy data to identify facilities with the greatest energy usage.

2.1 Utility Manager System

Purpose – The key to success in managing energy for *(organization name)* is implementing and maintaining a Utility Manager System (UMS). A UMS provides a consistent platform to evaluate energy use, cost, and patterns of facilities. The purpose of the utility manager will be to provide efficient access to the actual, on-going, energy use at specific *(organization name)* facilities. Objectives of the program will be to:

a. Develop energy benchmarks[3] for each facility.

[3] Energy Benchmarking is the process of comparing energy use metrics of a building against similar facilities to help understand the relative energy efficiency of the building.

b. Track energy use on a continuous basis and summarize on an annual basis.
c. Compare energy benchmarks to other *(organization name)* facilities and to other energy-industry standards.
d. Measure success in reducing energy use.
e. Afford easy access to the information in order to integrate energy consciousness into the ongoing actions and activities of the *(organization name)* and its stakeholders.

Description – The Energy Star Portfolio Manager is a free online program that can track *(organization name)* energy use over time. Data from SCE can be automatically entered each month. It is easy to set a baseline and to monitor each building closely for energy consumption. Buildings can then be compared to each other with respect to various metrics used to monitor energy consumption and energy efficiency and can also be compared to similar buildings throughout the country and receive an "Energy Star Rating." If this rating is above 75, the building is highly efficient and qualified to receive energy star recognition.

Why Energy Star Portfolio Manager? - Energy Star Portfolio Manager (ESPM) is free, and is accessible to anyone or any organization through easy, but password protected internet access. As such, the ESPM is well maintained and well supported by the US Environmental Protection agency. ESPM support includes on-line training documents and an account representative available through email or phone. The ESPM can be automatically populated with data from Southern California Edison. The County of Inyo is currently using Energy Star as its Utility Manager System to monitor County facilities. Like any software system, it requires dedicated time to be implemented to its highest and best potential. However, on a relative basis, once setup, the UMS is fairly simple and straight forward, making it easier for other entities to take on this project.

Optional: Add any other thoughts or descriptions of the UMS. Although optional, it is strongly recommended that the person(s) responsible for the EAP access ESPM, review the site and system, contact the County of Inyo, and add additional thoughts/descriptions/observations.
http://www.energystar.gov/index.cfm?c=evaluate_performance.bus_portfoliomanager

2.2 *(Organization Name)* Baseline Energy Use

It is important to identify where and how energy is being consumed, in order to evaluate which facilities offer the highest potential to save energy and money. To accomplish this, the first step is to identify specific *(organization name)* facilities to be evaluated. Then, obtain the utility bills for all of the energy at each of the target facilities (electricity, gas, propane, etc.) Table 2, below, illustrates the costs, shown above in Table 1, for the most recent calendar year, broken down by fuel type.

In developing Tables 1 and 2, the *(organization name)* is beginning to define a baseline from which all future energy efficiency will be compared.

Table 2 shows the 2011 total energy use broken down into electricity and gas costs. The table illustrates the percentage spent on gas versus electricity.

Insert Baseline Operations Energy Usage from recent 12-month period (2011 suggested)- Address Public Buildings, Street lighting and Water Pumping (if applicable).

Table 2. 2011 Total *(organization name)* **Energy Usage** *restate specific building or group of buildings from Table 1 to which this data applies*				
Energy Type (Unit)	**Annual Consumed**	**Annual Btu**	**Annual Cost**	**Percent of Total Annual Cost**
Electricity (kWh)				
Natural Gas (therms)				
TOTALS	**N/A**[4]		*Must equal the total-$ of Table 1 for 2011*	100%
Note: table can be extended depending on the "building" selected for the initial EAP. For instance, the maintenance yard may employ a significant number of trucks or busses which use a significant amount of gasoline. This is not necessarily recommended but is provided in this template as an example of "thinking outside of the box".				
Gasoline (gallons)				
Other				

*See **Appendix I** for further explanation of units and conversions used in Table 2 and throughout this template.*

*See **Appendix E**: City of Irvine Energy Action Plan, Section 2: Energy Use in Municipal Facilities*

2.3 Where Energy is Consumed

Once the utility bills have been accessed, and the Utility Manager System has been deployed, the Energy Action Plan can begin to take shape. Now the key question can be answered: "Which facilities are the highest users?" To determine this you will need to look at the energy use data from the UMS.

Note: some facilities (or street/traffic lights) may have more than one meter. To determine its complete use, add the meters together. It will also be important to look at energy use per square feet. To do this, divide the total annual energy use of a facility by its square footage.

[4] This column is not additive (the untis of measure of electricyt, vs. propane, vs. gas are dissimilar

The next step is to define which particular facilities are using the most energy. Breaking the energy use and the energy cost down by building will highlight the buildings that are least efficient and need the most work while also highlighting the most efficient buildings.

Table 3 illustrates the electricity usage of individual facilities. It shows both the total usage and the use per square foot. The use per square foot is to normalize each building making them comparable and highlighting which buildings are the least efficient.

Table 3. 2011 *(organization name)* **Energy Usage by Location**			
Facility	**Use per square foot (kWh/sq. ft.)**	**Total Electricity Usage (kWh)**	**Annual Cost**
City Hall			
Senior Center			
Etc.			

Optional: Expand on your results. Which facility uses the most energy? The least? Why do you think?

- ✓ *___ has the highest cost annually. This is likely because it is old/outdated.*
- ✓ *___ has the lowest annual costs/ energy use. This is because ____.*

Figures 1-3 below, graphically illustrate the energy use and cost. These examples will emphasize the results to the reader.

Figure 1 illustrates the annual electricity use by the individual facilities. It was generated using the Energy Star Portfolio Manager. *The information shown is taken from the County of Inyo data set. Please insert figure using the data collected from your organization.*

Energy Performance Graph September 2011

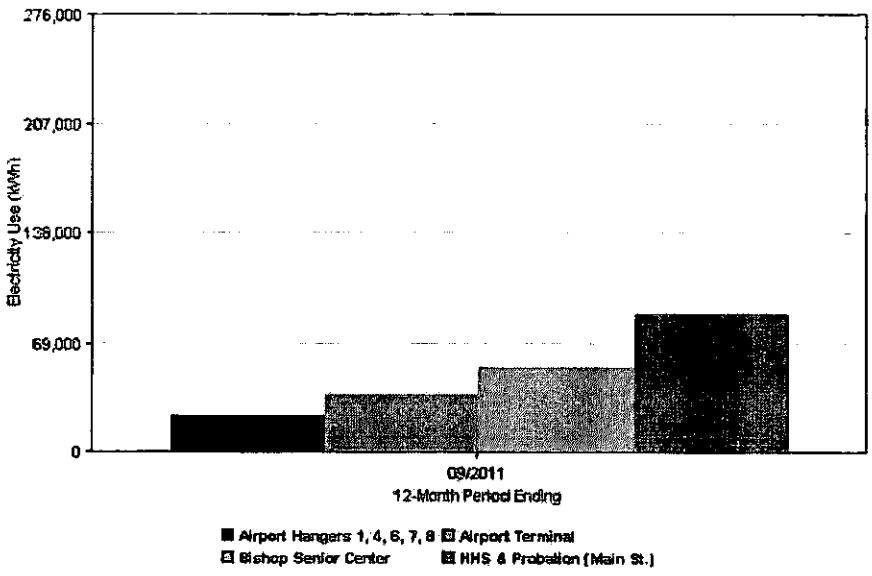


Figure 2 illustrates annual electrical use per square foot using the same data as above. By dividing the electricity use by the facility size normalizes the data and makes it possible to compare the efficiency of each building. It is important to note that although Figure 1 suggests *(insert facility name)* uses the most total electricity annually, Figure 2 shows that *(insert facility name)* uses the most electricity per square footage. *The information shown is taken from the County of Inyo data set. Please insert figure using the data collected from your organization.*

Energy Performance Graph September 2011

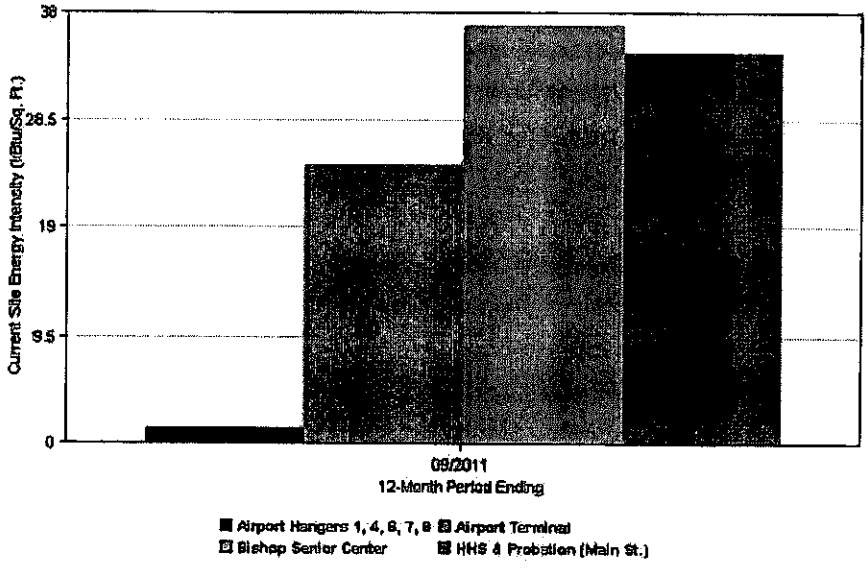


Figure 3 illustrates the annual cost of each facility using the same data as above. This often holds the most meaning to local governments and organizations because it highlights areas that could potentially save money. *The information shown is taken from the County of Inyo data set. Please insert figure using the data collected from your organization.*

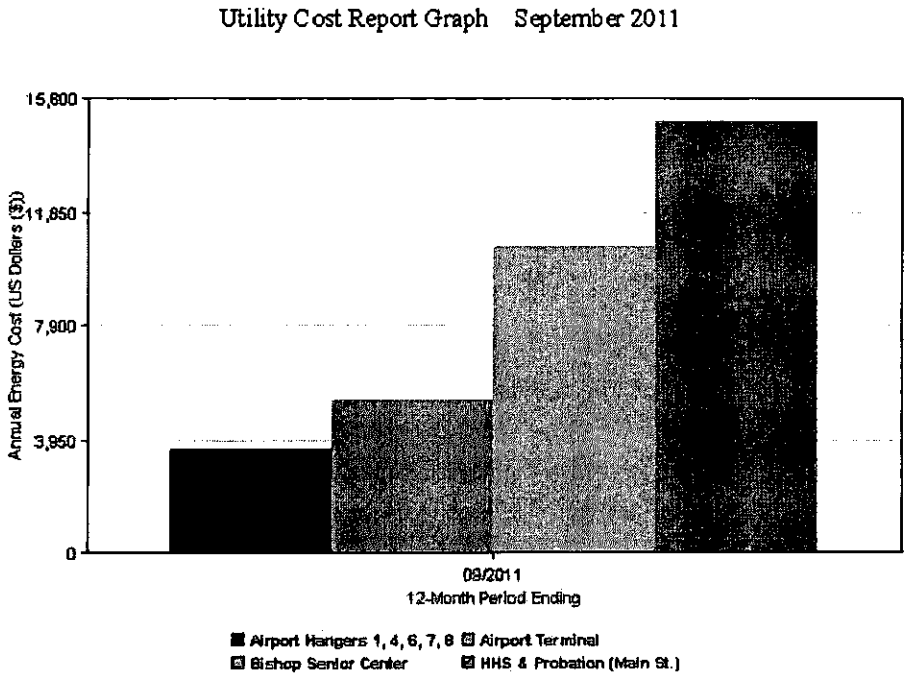
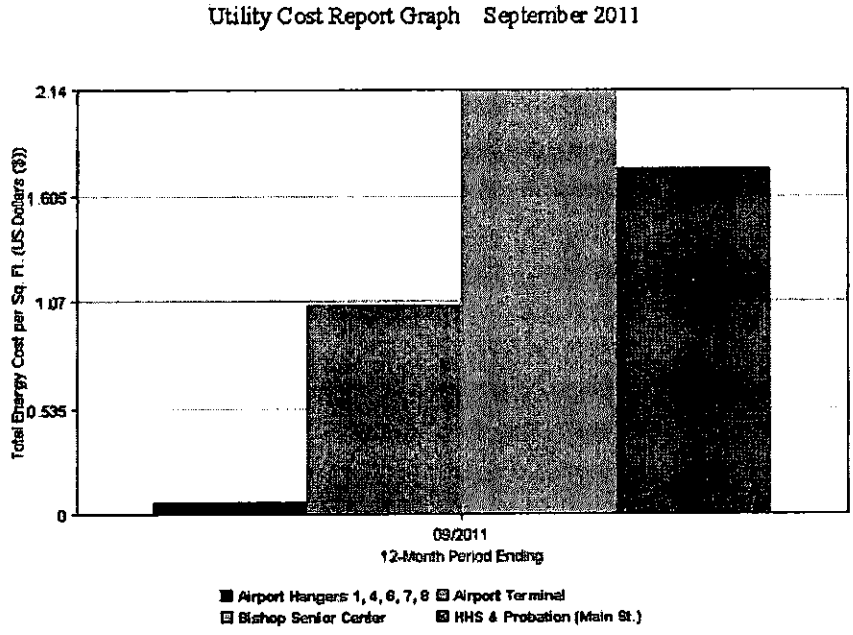


Figure 4 illustrates the cost per square foot of the *(organization's)* facilities. This may be significantly different than Figure 2 due to tiered pricing.



*Revisit **Appendix E**: City of Irvine Energy Action Plan, Section 2: Energy Use in Facilities, 2.2 Where Energy Is Consumed (p. 21).*

SECTION 3 – *(organization name)* TARGET REDUCTION STRATEGY

In the introduction, we stated the *organization*'s target reduction goal that "*(organization name)* will reduce energy usage by _____% by the year *20__*. Section 3 explains the strategies to reaching this goal.

Note: Each organization will have their own priorities in regards to a target reduction strategy. The examples in the appendix previously referenced provide flexibility on what the organization decides to focus their efforts on.

3.1 Organization's Facilities Strategy

***Step 1**: Insert Specific Reduction Goals and Milestones- For example, to increase the energy efficiency in buildings by 30 percent (i.e. decrease energy use by 30%) by the year 2015. Note that an achievable goal in a single year is on the order of 5%, see also section 4.2.*
***Strategy 1:** Insert specific approach to achieving this goal – a program, new policy.*

Example:
Step: (organization name) will employ more efficient lighting in all of its facilities.
Strategy: The City will replace all bulbs with LED lighting and will introduce a "lights off when not in use" policy.

***Step 2**: continue for all steps*
***Strategy 2**: continue for each step*

*See **Appendix F**: City of Sacramento Sustainability Master Plan, Focus Areas 1-9*

3.2 Outreach Strategy

Describe outreach to internal groups of the organization such as other departments of the government, and/or outreach to the greater community. This EAP will show the organization's leadership in formalizing the efforts and will "lead by example". Define who the internal/external groups are. Anyone who is affected by this plan should be made aware of what it is and how it will impact them.

***Step 1**: insert specific reduction goals and milestones for community energy consumption and outreach.*

***Strategy 1**: Insert specific approach to achieving this goal – incentives, outreach*

Example:
Step: (organization name) will establish outreach programs for local businesses and the residential community.
Strategy: (organization name) will hold bi-monthly information sessions on __, __, and __.

***Step 2**: continue for all steps*
***Strategy 2**: continue for each step]*

*Revisit **Appendix F**: City of Sacramento Sustainability Master Plan, Focus Areas 1-9*

SECTION 4 – *(organization name)* ACTION STEPS

Section 3 explained the strategies that (organization name) will employ to reach the target goal(s). This section explains each project in greater depth including timelines, funding, and tracking.
Insert a general description of how the organization will be able to measure reductions in energy usage- Address who will be responsible for what, who coordinates, who owns the strategy?

- The *(organization name)* will use the EPA's Portfolio Manager to benchmark energy use and to track EAP program success. The baseline year is (insert baseline year) *Baseline year will be established by the individual organization.*
- *What policies will be implemented and by when?*
- *Add timelines and goals on how the energy use will be monitored.*

4.1 Facility Energy Efficiency Projects

Insert potential or planned projects to reduce energy usage (Air Conditioning, Lighting, Pumping, etc). Provide a timeline of the projects and when they could be completed to impact the energy usage

*See **Appendix G**: City of Huntington Beach Energy Action Plan: Section 4 – City of Huntington Beach Action Steps*

Planned Projects – *insert projects that are planned, the potential savings, and the cost.*

Table 4 is a summary of the energy projects and that the *(organization name)* will employ to reduce energy and the costs/savings associated with each.

Table 4. Planned Projects Summary					
#	***Location***	***Description***	***Energy Savings (kWh)***	***Energy Savings (therms)***	***Capital Cost***
1	*Court House*				
2	*Civic center*				
3	*Etc.*				
Totals:					

Future Projects – *Insert projects the organization would like to complete in the future/long-term schedule.*

- ✓ ***Future Project 1:*** *(example) as infrastructure is replaced, install energy efficient designs.*

  Note *– in descriptions, provide a timeline/goal as to when the project will be completed. What projects will be completed? What is the possibly the 10 year, 5 year and 2 year project plan?*

4.2 Funding of Projects

The California Energy Commission released a document in January of 2000 titled "How to Finance Public Sector Energy Efficiency Projects." It outlines what criteria a project should meet, ways to finance that project, and specific organizations in California that are available to help with funding. *http://www.energy.ca.gov/reports/efficiency_handbooks/400-00-001A.PDF*

Available funding - *What funding mechanisms (low interest or no interest loans, revolving funds, etc.) Are available that you can use to fund these projects?*

Examples From Other Organizations

- ✓ **The City of Portland's** City Energy Challenge is an internal tax which take 1% from each city departments energy bill to fund governmental energy efficiency projects. This funding has a $15,000 cap. The program resulted in energy savings higher than the fees paid through the tax.

- ✓ **The City of Boulder** Climate Action Plan tax, passed in 2006, taxes residences and businesses based on how much electricity they use. In 2010, the tax generated about $1.8 million. The money from the tax then goes into funding Boulder's Climate Action Plan.

- ✓ **County of Alameda's** Revolving Energy Fund was established in 1995 to set aside incentives and refunds from past projects to use to fund future energy projects. It helps to pay for projects with longer payback periods. The County's General Services Agency also collects a surcharge on each department's utility bill that funs the county's Energy Program.

This operates on the idea that all departments benefit from lower utility bills so they can afford to each pay the surcharge.
http://californiaseec.org/documents/best-practices/best-practices-alameda-county-ac-fund

✓ *Optional: review the above and add any other examples of funding programs.*

Potential funding – *list any funding mechanisms that may be available in the future*

✓ **SCE On-Bill Financing** is a 0 percent interest, no-fees loan program for energy efficiency projects. The program offers zero-interest loans for the installation of qualified energy efficiency equipment. Government and institutional loans have a minimum of $5,000 and a maximum of $250,000 and can be paid off in up to 10 years.
http://www.sce.com/business/onbill/about-on-bill.htm

✓ **U.S Small Business Administration** (SBA) has the 504 Loan Program available to organizations that meet the SBA requirements. Specifically, the Energy Conservation Loan is to be used on projects that conserve energy use solar thermal of PV cells.
http://www.energystar.gov/index.cfm?c=sb_state.sba_loans

✓ **California Energy Commission** (CEC) Energy Efficiency Financing Program is a loan program with 3% interest for local governments and public institutions. It can be used to fund energy efficiency projects involving: lighting systems, pumps and motors, streetlights and LED traffic signals, automated energy management systems/controls, building insulation, energy generation including renewable and combined heat and power projects, heating and air conditioning modifications, and Waste water treatment equipment.
http://www.energy.ca.gov/efficiency/financing/index.html

Acceptable payback periods *–Example: (organization name) should institute a policy to have payback periods of 5-10 for energy projects. (A $1,000 investment that saves $500 each year has a two year simple payback.)*

Before implementing an energy efficiency project it is important to determine its feasibility. This includes both the ease of implementation and the payback period. An energy efficiency project should result in enough savings to eventually cover its initial costs. An acceptable payback period is about 10 years, which assumes that annual cost savings due to the project are 10%. Acceptable payback periods can differ depending on the funding available to the organization. The payback will be affected by the local utility provider's Billing rates. SCE has a tiered structure which operates on a "the more you use, the more you pay" concept. SCE's current rates range from $0.13 per Kwh to $0.30.

Below are some examples of energy projects and their payback periods:

- ✓ *"Low hanging fruit" – There are often simple operational changes that can be made to lighting, plug[5] loads or HVAC[6] equipment by simply turning then off when not in use. Payback can be as fast as 6 months.*
- ✓ *Scheduled capital maintenance or repair projects often offer the best return on investment by upgrading to the **most** energy efficient option. Even though the initial cost can be higher, the upgrade will pay back in 1 – 4 years.*
- ✓ *Lighting projects often pay back in the range of 2-5 years.*
- ✓ *HVAC projects often pay back in about 3-8 years.*

Rebates/Incentives

For completing energy efficiency projects. Who offers incentives? Do any apply to the organization? Will any be offered by the organization for community use?

- ✓ **SCE** has multiple rebate/incentive programs and Energy Management Solutions. The Express Solutions available offer cash rebates to cover costs of upgrading to higher efficiency equipment. This includes lighting, air conditioning, food service equipment, refrigeration, and agricultural equipment. SCE also has Customized solutions that are for more specialized efficiency improvements. As mentioned above there is also a tired rate system based on the amount of energy that they consume. The following resources provide additional information regarding this program.
  http://www.sce.com/business/ems/customized-solutions/default.htm
  http://www.sce.com/business/ems/express_solutions.htm?from=express_solutions

- ✓ **LADWP** offers rebate and incentive programs including a Consumer Rebate Program, Low Income Refrigerator Exchange Program, and the Green Power Program. Most notably there is a solar rebate program that covers part of the costs of installing solar panels. The website also offers guides on energy efficiency. http://www.ladwp.com/ladwp/cms/ladwp001950.jsp

- ✓ **California's State Energy Program** has a municipal finance program that will provide local governments with program start-up and ongoing costs, interim financing, interest rate buy-down, and property owner rebates. The program expects the local government to then use those funds to offer rebates to the community for energy efficiency projects. The CEC also has a Wind and Fuel cell Renewable Rebates Program.

*Revisit **Appendix G:** City of Huntington Beach Energy Action Plan: Section 4 – City of Huntington Beach Action Steps, 4.2 Funding of Projects (p. 29).*

[5] Plug loads refer to anything that is plugged in. Often times computers, copiers, printers, fax machines are left on all night and all weekend. These "vampires" waste significant power.
[6] HVAC is the abbreviation which refers to equipment associated with comfort heating, comfort cooling, and fresh air ventilation. This accounts for 20% to 40% of the energy used in most buildings or residences. HVAC = heating, ventilating and air conditioning.

4.3 Policies

Insert any policies or procedures that the organization can implement to assist in the reduction of energy usage (i.e. the General Plan). Could there be a purchasing policy or revolving fund? A building ordinance? Are there any policies regarding codes or incentives the organization could take to improve energy usage?

The *(organization name)* will implement the following policies with the goal to increase energy efficiency and cost savings.

Future Potential Policies *(examples/options in red)*

- ✓ ***Establish Benchmarking Policy***

  Benchmarking is the process of comparing energy use metrics of a building against similar facilities to help understand the relative energy efficiency of the building. (Organization Name) will acquire and deploy a utility manager system that will be used to evaluate existing and projected energy use for all (define which facilities; i.e. organization's own; city's, private?) facilities. These benchmarks will set the criteria for developing the policies and procedures for getting to more efficient use of (Organization Name)'s resources and providing direction for cost savings.

- ✓ ***Establish building rating system*** *(LEED, Energy Star, CALGreen)*

  Existing energy efficiency standards may be adopted to provide a defined set of goals for the Organization's facilities. These goals will help the (Organization Name) achieve a reduction in energy use by providing methods and standards that have proven to be effective for other jurisdictions. Additionally, (Organization Name) will attempt to create a resource and incentive program for the others using a "lead by example" approach. (Provide specifics if the Organization will meet/exceed LEED, Energy Star or Cal Green standards)

- ✓ ***Establish commissioning (Cx)/retro-commissioning (RCx) policy***

  Commissioning and retro-commissioning are collaborative processes that look at how and why a building's systems are operated and maintained as they are, or in the case of a new building, as they are installed and designed, and then identifies ways to improve overall building's performance. As a process, rather than a set of prescriptive measures, commissioning and retro commissioning adapts to meet the specific needs of each building. Since occupant comfort complaints and high energy use can often go hand-in-hand, retro commissioning can help to correct both.

  - *Improve employee, tenant or occupant comfort, safety, and health, and improve the indoor environment through a systematic evaluation of building systems, equipment, and controls.*
  - *Optimize energy efficiency through operation of the building as originally intended (or designed) and through the identification and implementation of improvement upgrades.*
  - *Reduce operations, maintenance, and repair costs by implementing improvements to operational requirements and effective maintenance procedures.*

- *Improve maintenance and operations personnel skills and awareness through training and certifications as appropriate to maintain the building in an optimal operating conditions, and to implement a process for planned continuous re-commissioning*
- *Gain acceptance, at all levels of management and at the Board level; of the (retro)-commissioning process as a standard (and continuous) building operating method. Use project successes and maintenance staff expertise as leverage to implement a process for planned and period, re-commissioning facilities.*

✓ ***Conduct energy savings analysis for GHG inventory***

An energy efficiency savings analysis provides the foundation for an annual greenhouse gas inventory. This plan will include management structure to oversee energy programs, goals to reduce energy and greenhouse gas, and specific programs to achieve those goals such as regular audits of facilities, and a time schedule for implementation.

✓ *Other*

*Revisit **Appendix G**: City of Huntington Beach Energy Action Plan: Section 4 – City of Huntington Beach Action Steps, 4.3 Future Guidelines or Policies (p. 30).*

4.4 Tracking & Reporting

Tracking - *How will the organization track to monitor progress to ensure that the organization reducing energy?*

The Utility manager system will track energy usage, reduction, costs, and changes in the baseline. SCE facilities will be entered monthly using the automated benchmarking system while DWP buildings will be entered manually.

Reporting - *How will the organization report progress to share results?*

- ✓ Annual reports will be sent to the *(board/council).*
- ✓ Reports will outline the changes in energy use and cost.

*Revisit **Appendix G**: City of Huntington Beach Energy Action Plan: Section 4 – City of Huntington Beach Action Steps, 4.4 Tracking (p. 31).*

CONCLUSIONS

Insert any closing remarks. Briefly sum up report/plan.
*See **Appendix H**: City of Beaumont's Energy Action Plan, Conclusions*

APPENDICES

Add any appendices necessary.

AGENDA REQUEST FORM

BOARD OF SUPERVISORS
COUNTY OF INYO

For Clerk's Use Only:
AGENDA NUMBER
14

☐ Consent ☒ Departmental ☐ Correspondence Action ☐ Public Hearing

☐ Scheduled Time for ☐ Closed Session ☐ Informational

FROM: Water Department

FOR THE BOARD MEETING OF: April 17, 2012

SUBJECT: Integrated Regional Water Management Plan: Regional Water Management Group April 17 meeting

DEPARTMENTAL RECOMMENDATION:

The Water Department requests your Board receive an update on IRWMP activities and provide direction concerning the April 17, 2012 Regional Water Management Group meeting concerning the Inyo-Mono Integrated Regional Water Management Plan (IRWMP).

SUMMARY DISCUSSION:

The Inyo-Mono Regional Water Management Group (RWMG) is meeting April 17 at the USFS building in Bishop. Attached is a draft agenda with the following action items:

1. Approval of goals, objectives, and resource management strategies for revised plan.
2. Approval of standardized scope of services for Inyo-Mono IRWMP fiscal agent.
3. Approval of minutes from February 22, 2012 RWMG meeting.

ALTERNATIVES:

OTHER AGENCY INVOLVEMENT:

Numerous MOU signatories.

FINANCING:

No impact.

APPROVALS	
COUNTY COUNSEL: N/A	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS *(Must be reviewed and approved by county counsel prior to submission to the board clerk.)* Approved: _____ Date_____
AUDITOR/CONTROLLER: N/A	ACCOUNTING/FINANCE AND RELATED ITEMS (*Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)* Approved:_____ Date_____

PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.)
N/A	Approved:_____Date_____

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received)_____Date: 4/10/2012
(The Original plus 20 copies of this document are required)

Draft Agenda
Inyo-Mono Regional Water Management Group
Regular Meeting

Wednesday, April 25
9:30 am - 12:30 pm
BLM, USFS, SNC Conference Room
Bishop, CA

Call-in option:
1-866-862-2138
passcode: 1678718

Please RSVP by emailing Janet Hatfield (janet@inyomonowater.org) by Friday April 20, 2012 by 5:00 pm whether you will be *attending in person or via phone.*

***Notice**: If you will be calling in to the meeting and you are an MOU signatory, please send your call-in address to Janet Hatfield (janet@inyomonowater.org) by 9:00 am Sunday, April 22, 2012. You will also need **to post the meeting notice and agenda at your location by that time.**

Call-in locations:

1. Inyo County Water Department
   135 South Jackson St.
   Independence, CA 93514

If you require special accommodations to participate in this meeting in person or by phone, please contact Janet Hatfield (janet@inyomonowater.org ; 760-387-2747) 72 hours prior to the meeting.

RWMG Meeting Process

The public will be offered the opportunity to comment on each agenda item prior to any action on the item by the membership. The public will also be offered the opportunity to address the membership on any matter pertaining to IRWMP business. Agenda items indicated as "Action" require that members undertake activities subsequent to the meeting. Agenda items indicated as "Decision" are items where the membership will make a decision on the item at the meeting. This agenda can also be viewed in the Calendar section of www.inyomonowater.org.

All decisions of the RWMG are made by consensus as defined in Article I of the Inyo-Mono Regional Water Management Group Planning and Implementation Memorandum of Understanding (MOU). After a motion is made by a Member, there is opportunity for discussion, and then RWMG Members are asked to vote. Members may approve a decision (thumbs up), vote that they can live with a decision while not completely approving of it (thumbs sideways), or disapprove of a decision which withholds consensus (thumbs down). A Member may also abstain from voting, which will be interpreted as no opposition to the action. If there are no Members voting thumbs down, the decision is passed by consensus. The decision is then recorded in the meeting notes.

AGENDA

1. **Welcome and Introductions (10 min)**

2. **Public Comment period (5min)**

3. **Round 1 Planning Grant (50 min)**
   a. CRWA Needs Assessment Summary
   b. Plan Revisions
   c. Website login page updates
   d. Match Form March/April
   e. **GORMS Process Overview**

   DECISION ITEM:
   1. **Approve revised GORMS final document as recommended by the Admin. Committee**

4. **Round 2 Planning Grant (5min)**

5. **DAC Grant (10 Min)**

6. **Future Implementation Rounds (30 Min)**
   a. Revised DWR Implementation Schedule
   b. RFP Working Committee Update
   c. Standardized Inyo-Mono IRWMP Fiscal Agent Scope of Services

   DECISION ITEM:
   1. **Approve Standardized Inyo-Mono IRWMP Fiscal Agent Scope of Services**

*******10 Minute Break*******

7. **Implementation Grant Update (15 min)**
   a. M7 Progress Report
   b. Fiscal Agent Update

8. **501(c)(3) Status Update (10 Min, Bruce Woodworth)**

9. **Proposed MOU Amendment**

8. **General Updates (10 Min)**

9. **Announcements (10 Min)**

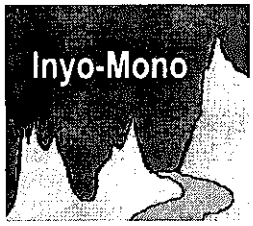
10. **Process Check (5 Min)**

11. **Review February 22, 2012, RWMG meeting notes (5 Min)**

    DECISION ITEM(s):
    1. **Approve February 22, 2012 RWMG Meeting Notes**

12. **Review of action items, decision items, and recommendations from today's meeting**

13. **Next Meeting Dates**
    a. Next RWMG meeting: Meeting Schedule also available at www.inyomonowater.org
       - Wednesday, May 23, 2012



Inyo-Mono Integrated Regional Water Management Plan Revised IRWM Plan Mission, Vision, Goals, Objectives, and Resource Management Strategies

Explanation of Revisions: As directed by the Regional Water Management Group (RWMG) at the February 2012 meeting, Program Staff revised the mission, vision, goals, objectives, and resource management strategies (GORMS) presented below to reconcile the feedback received from various RWMG members. The Administrative Committee reviewed this version at its March 21 meeting and minor edits were made. The revised document was available for further review by the Administrative Committee until March 29, but no substantive comments were provided. Thus, the version below is presented for final consideration by the RWMG at its April 25, 2012 meeting.

Key to Revisions: As described above, the suggested revisions were based on the feedback received from one or more sources:

1) online survey to MOU signatories (14 respondents);
2) online public survey (9 respondents);
3) public meetings held in Ridgecrest, Benton, and Coleville in late 2011;
4) feedback received from various RWMG members during February [Bob Harrington (Inyo County), Irene Yamashita (Mammoth Community Water District), and Lori Dermody (LADWP)];
5) RWMG discussion at the late February meeting;
6) review by the Administrative Committee and others that participated at the March 21, 2012 Administrative Committee meeting; and
7) limited review of other successfully running IRWMP efforts in California.

Revised Mission, Vision, Goals, Objectives, and Resource Management Strategies

Mission Statement:

To research, identify, prioritize, and act on regional water issues, and related social and economic issues, so as to protect and enhance our environment and economy. Working together, we create and implement a regional water management plan that complies with applicable policies and regulations and promotes innovative solutions for our region's needs.

Vision Statement:

Our vision is a landscape that is ecologically, socially, and economically resilient. As diverse stakeholders, we identify and work toward our common goals. We achieve a broad-based perspective that benefits our regional ecosystems and human communities by combining our interests, knowledge, expertise and approaches. We strive to have every voice heard within our region and our collective voice heard in the state and nation.

Co-Equal Regional Objectives:

1. Protect, conserve, optimize, and augment water supply while maintaining ecosystem health;
2. Protect, restore, and enhance water quality;
3. Provide stewardship of water dependent natural resources;

4. Maintain and enhance water, wastewater, emergency response, and power generation infrastructure efficiency and reliability;

5. Address climate variability and reduce greenhouse gas emissions;

6. Promote participation of small and disadvantaged communities, including Tribes, in IRWM process to identify and work towards meeting their needs;

7. Promote sustainable stormwater and floodplain management that enhances flood protection; and

8. Promote sound groundwater and surface water monitoring, management, and mitigation in cooperation with all affected parties.

Co-Equal Regional Objectives and Resource Management Strategies

Regional Objective	Resource Management Strategies
1. Protect, conserve, optimize, and augment water supply while maintaining ecosystem health	A. Improve water supply reliability. B. Improve system flexibility and efficiency. C. Support compliance with current and future state and federal water supply standards. D. Address local water supply issues through various techniques, including, but not limited to: groundwater recharge projects, conjunctive use of water supplies, water recycling, water conservation, water transfers, and precipitation enhancement. E. Optimize existing storage capacity. F. Conserve and adapt water uses to future conditions. G. Capture and manage runoff where feasible. H. Incorporate and implement low-impact development design features, techniques, and practices. I. Promote public education about water supply issues and needs. J. Promote planning efforts to provide emergency drinking water to communities in the region in the event of a disaster. K. Promote water efficiency in fish hatcheries. L. Protect water supplies that support public recreational opportunities.

Regional Objective	Resource Management Strategies
2. Protect, restore, and enhance water quality	A. Support achieving compliance with current and future state and federal water quality standards. B. Improve the quality of urban, agricultural, and wildland runoff and/or mitigate their effects in surface waters and groundwater. C. Support monitoring to better understand major sources of erosion and causes and, where feasible, reduce erosion and sedimentation. D. Protect public and aquatic ecosystem sustainability. E. Match water quality to water use. F. Support appropriate recreational programs that minimize and/or mitigate impacts to water quality.
3. Provide stewardship of water dependent natural resources	A. Protect, restore, and enhance natural processes, habitats, and threatened and endangered species. B. Protect, enhance, and restore ecosystems. C. Support science-based projects to protect, improve, assess, and/or restore the region's ecological resources, while providing opportunities for public access, education, and recreation where appropriate. D. Support research and monitoring to better understand the impacts of water-related projects on environmental resources. E. Identify, develop, and enhance efforts to control invasive species.

Regional Objective	Resource Management Strategies
4. Maintain and enhance water, wastewater, emergency response, and power generation infrastructure efficiency and reliability	A. Promote rehabilitation and replacement of aging water and wastewater delivery and treatment facilities in rural communities, including tribal lands. B. Ensure adequate water for fire protection and emergency response. C. Promote and improve energy efficiency of water systems and uses. D. Promote water efficiency in power generating facilities. E. Provide for development and improvement of emergency response plans.
5. Address climate variability and reduce greenhouse gas emissions	A. Increase understanding of water related greenhouse gas emissions. B. Increase understanding of impacts of climate change on water supplies and water quality. C. Manage and modify water systems to respond to increasing climate variability. D. Support efforts to research and implement alternative energy projects and diversify energy sources to move and treat water within the region. E. Support efforts to reduce greenhouse gas emissions in the region. F. Promote public education about impacts of climate change, particularly as it relates to water resource management in the region. G. Support assessment and mitigation of water-related impacts of renewable and non-renewable energy projects.

Regional Objective	Resource Management Strategies
6. Enhance participation of disadvantaged communities and tribal entities in IRWM process	A. Engage regional communities and tribes in collaborative water and natural resource management related efforts. B. Provide assistance for tribal and DAC consultation, collaboration, and access to funding for development, implementation, monitoring, and long-term maintenance of water resource management projects. C. Promote public education and training programs in disadvantaged communities and tribal areas about water resource protection, pollution prevention, conservation, water quality, watershed health, and climate change. D. Promote social resilience in disadvantaged communities and tribes to more effectively respond to social, economic or environmental disturbances impacting water-related resources.
7. Promote sustainable stormwater and floodplain management that enhances flood protection	A. Characterize current stormwater and flood management situations and challenges. B. Promote region-wide integrated stormwater and flood management planning. C. Improve stormwater and flood management infrastructure and operational techniques/strategies. D. Promote projects and practices to protect infrastructure and property from flood damage. E. Integrate ecosystem enhancement, drainage control, and natural recharge into construction projects. F. Develop and implement public education, outreach, and advocacy on stormwater and flood management matters.

Regional Objective	Resource Management Strategies
8. Promote sound groundwater and surface water monitoring, management, and mitigation in cooperation with all affected parties	A. Support and implement state-mandated groundwater and surface water monitoring requirements, and other groundwater monitoring efforts. B. Promote efforts to monitor, manage, and mitigate effects of groundwater-dependent projects. C. Develop and support projects that mitigate for the effects of groundwater extraction. D. Protect and improve the quality and quantity of stored groundwater supplies and recharge areas. E. Promote conjunctive use projects. F. Identify existing gaps in groundwater and surface water quantity data and undertake appropriate assessments/characterization studies. G. Collect data and monitor groundwater and surface water supply variability. H. Promote efforts to manage/design groundwater projects so that future impacts requiring mitigation are avoided.

INYO-MONO IRWMP
FISCAL AGENT SCOPE OF SERVICES
April 25, 2012

The Inyo-Mono Regional Water Management Group (RWMG) was formed under Proposition 84 and California Department of Water Resources (DWR) guidelines to define and implement water-related goals and programs within the planning region. Much of the funding that the RWMG seeks to obtain and manage is provided by DWR or similar State agencies. These agencies normally require that the contractual obligations of grants or other financial resources be administered through a fiscal agent, who acts as a liaison between the government agency and the project proponent(s), whether that proponent is the RWMG itself or an associated water-related entity from within relevant counties.

This document defines the eligibility, responsibilities, and compensation requirements for an entity to act as the fiscal agent on an RWMG contract.

Eligibility

Generally, the State requires that an eligible fiscal agent be a public institution or a non-profit organization that has the ability to show viable and established organizational and financial resources which demonstrate the ability to successfully accomplish the contracting aspects of a grant program.

- A public agency is a city, county, district, joint powers authority, a state agency or department, or other political subdivision of the state. At this time, federal agencies are not eligible for consideration for fiscal agency.

- A non-profit organization means any California corporation organized under Section 501(c)(3, a4, or 5) of the federal Internal Revenue Code. Indian tribes with Section 501(c)(3) status are also eligible.

Responsibilities

The fiscal agent acts as administrator of a grant, and has responsibility for seeing that contractual commitments are met based on requirements from the funding agency and for administering payment of grant monies to project proponents under conditions described in the grant. The fiscal agent is not responsible for program management of the project(s)[1] authorized under the grant or for

technical completion of the project(s); the latter remain the responsibility of the proponents of the project(s) identified in the grant.

The fiscal agent provides the following general services (these may vary as described in individual contracts):

- Serve as the single-point liaison between the grantor and the RWMG or project proponents
- Develop and administer sub-contracts with project proponents in a timely manner
- Provide regular communication with the grantor and project proponents, including timely responses to requests and questions, as well as clarification of terms and conditions or other contractual matters
- Attend to contractual grant administration tasks, including, but not limited to, responding to a commitment letter, signing a grant agreement/contract, providing invoices and reports on a regular schedule, and delivering a final report.
- Facilitate regular reporting on project progress, including an annual report, to the RWMG and monthly informal reports to the Inyo-Mono Administrative Committee
- Collect cost data from and provide timely reimbursements, within reason, to project proponents.
- Obtain relevant contractual documents for the proponent(s).
- An agreement for services between the fiscal agent and the Inyo-Mono RWMG may include other services as deemed appropriate by both parties.

Compensation

The fiscal agent will be reimbursed for costs related to administration of the contract in accordance with conditions specified in the individual contract. Generally this compensation will be expressed as a portion of the grant award and would be based on the total grant award.

Contact

To obtain more information on representing the Inyo-Mono RWMG as a fiscal agent, please contact:

Mark Drew
Inyo-Mono IRWM Program Office
P.O. Box 3442
Mammoth Lakes, CA 93546
760-924-1008
mdrew@caltrout.org

Final Agenda
Inyo-Mono Regional Water Management Group
Regular Meeting

Wednesday, February 22, 2012
9:30 am - 12:30 pm
Mammoth Town Council Chambers: Suite Z
Mammoth Lakes, CA

Call-in option:
1-866-862-2138
passcode: 1678718

DECISION ITEMS:

1. **Approve CalTrout Scope of Services**
   Recommended Motion: The Admin Committee recommends approving the California Trout Scope of Services document as written.

- **Dan Moore moves to approve the California Trout Scope of Services as amended; noticing the recommended language change that the Round 2 Planning Grant CalTrout Administrative Budget will not exceed 12%. Rick Kattelmann Seconds the motion. All approved.**

2. **Approve January 25, 2012 RWMG meeting notes**

- **Rick moves to approve the January 25, 2012 meeting notes. Bruce Woodworth seconded the motion. All approved.**

ACTION ITEMS:

- **The Staff clearly articulates that any proposal submissions received after 5:00 p.m. on Feb. 28 will not be included in the Round 2 Planning Grant Final Proposal to DWR.**
- The Program Office will circulate the Sewer Rate Survey for the June Lake PUD via email to assist them in gaining needed rate data for the region.
- Tony Dublino will let the Program Office know if the requested comment period extension is granted for the Lahontan RWQCB Agricultural Waiver Program for Bridgeport Valley.
- Comments on the current Inyo-Mono IRWM Plan should be provided to Rick Kattelmann by March 1, 2012.
- The Program Office will provide a Word version of the Plan to those individuals interested to facilitate their comments to the current Phase I Plan. Those interested please contact Janet.
- Austin McInerny will come up with some suggested wording for the Admin. Committee with regards to the Groundwater objective for the March 21 meeting.
- The Program Office will disseminate the next iteration of the Revised GORMS document to MOU signatories with the Admin. Committee Agenda prior to the next Admin. Committee meeting. Those interested in participating in the final revisions to the document are invited and encouraged to participate in the March Admin. Committee meeting, as this will be the final opportunity to provide feedback before it is sent to the Group for approval.
- Those interested in participating on either of the Working Committees (RFP or Fiscal Agent SoS) who did not verbally volunteer at the meeting, please contact Janet via email janet@inyomonowater.org ASAP to express interest so that you may be included on the emails.
- RFP Working Committee will have a recommended standardized ranking structure and Proposal Development process to recommend to the Admin.Committee by the March 21 meeting with the intention of approval by the RWMG on April 25.
- Fiscal Agent SOS Working Committee will have Standardized Scope of Services prepared prior to the Admin.Committee meeting in March for potential review and recommendation (time permitting) to the RWMG at the April 25 RWMG meeting.
- Holly Alpert will provide a Summary of the CA Rural Water Needs Assessments conducted in 2011 at the April 25 RWMG meeting.
- M7 Project Proponents request that they be included on all email correspondence from Valerie relevant to Implementation projects, instead of receiving emails as a third party.
- Bruce Woodworth will send a description from the Grant Agreement with details relevant to the Civil Engineering requirement to M7 members.
- Program Staff will work with Bob, Tony, Leroy, and Irene to ensure that agendas are being circulated in a timely manner.

- Janet will send out a reminder of the needed match hourly rate justification on official letterhead with the notes.
- Janet will post JAN/FEB Match Forms to the website.

AGENDA

1. **Welcome and Introductions (10 min)**
   a. Report on meeting audio technology findings

2. **Public Comment period (5min)**

3. **Round 1 Planning Grant (30 min)**
   a. General Planning Grant Update
   b. DWR Invoice #1: April – October, 2011
   c. Goals Objectives, RMSs Revision Progress
   d. Project Ranking Process
   e. 501(c)(3) Update
   f. Phase II Plan Schedule

4. **Round 2 Planning Grant (15 min)**
   a. Update on Proposal Progress
   b. California Trout Scope of Services
      DECISION ITEM: Approve CalTrout Scope of Services
      Recommended Motion: The Admin Committee recommends approving the California Trout Scope of Services Document as written.

5. **DAC Grant (20 Min)**
   a. Outreach Training: Lessons learned
   b. DAC data acquisition
   c. Conversation with DWR regarding DAC Pilot Project
   d. Next Steps

***** 10 MINUTE BREAK*****

6. **Implementation Grant Update (20 min)**
   a. Update from M7
   b. Update from Central Sierra
   c. Next Steps

7. **Leveraging RWMG Support (15 Min)**
   a. Recent requests
   b. Leveraging the RWMG to support member needs

8. **General Updates (15 Min)**
   a. Sierra Water Work Group
   b. CA Water Plan
   c. WEAP

9. **Announcements**

10. **Process Check**

11. **Review January 25, 2012, RWMG meeting notes**

DECISION ITEM(s):

1. Approve January 25, 2011 RWMG meeting notes.

12. Review of action items, decision items, and recommendations from today's meeting

13. Next Meeting Dates

a. Next RWMG meeting: Meeting Schedule also available at www.inyomonowater.org
   - Wednesday, April 25, 2012
   - Wednesday, May 23, 2012

b. Next Admin. Committee Meeting: **Wednesday March 21, 2012 (9-11 am)**

Draft Meeting Notes

- **Tony Dublino calls the meeting to order at 9:35 am**

1. Welcome and Introductions (10 min)

Attending in Person

1. Bob Harrington, Inyo County Water Department
2. Bruce Woodworth, Central Sierra RC & DC, Mono County RCD
3. Dan Jenkins, Eastern Sierra Unified School District
4. Dan Moore, Round Valley School
5. Danna Stroud, Mojave Desert Mountain RCD
6. Darla Heil, Owens Valley Indian Water Commission
7. Harvey VanDyke, Wheeler Crest CSD
8. Holly Alpert, IRWMP Staff
9. Irene Yamashita, Mammoth Community Water District
10. Janet Hatfield, IRWMP Staff
11. Jeremiah Joseph, Fort Independence Indian Reservation
12. Justin Nalder, Bridgeport Indian Colony
13. Lori Dermody, LADWP
14. Malcolm Clark, Sierra Club
15. Mark Drew, CalTrout, IRWMP Staff
16. Matt Hayes, Lone Pine Paiute Shoshone Reservation
17. Nate Reade, Inyo County Ag. Commissioner's Office
18. Pete Bernasconi, Town of Mammoth Lakes
19. Rich Ciauri, June Lake PUD
20. Rick Kattelmann, Eastern Sierra Land Trust
21. Tony Dublino, Mono County

Attending on the Phone

22. Alan Bancock, Big Pine Paiute Tribe
23. Austin McInerny, Center for Collaborative Policy
24. BryAnna Vaughan, Bishop Paiute Tribe
25. Jen Wong, Department of Water Resources
26. Joy Fatooh, Bishop BLM
27. Leroy Corlett, Indian Wells Valley Water Commission, Indian Wells Valley Cooperative Groundwater Management Group.

a. Report on meeting audio technology findings

- Janet Hatfield gives brief overview of technology options for improved conference calling quality at RWMG meetings. They include purchasing a brand new high quality PolyCom system which would cost approximately $1,000, a refurbished system identical to the first for approximately $700, or we can purchase some refurbished satellite speakers and additional microphones in hope that they work with our current make and model Polycom unit.
- Mark Drew suggests trying the least expensive of the fixes and if they prove satisfactory then great, if not additional options can be explored. All ageed.

2. Public Comment period (5min)
   - Rich Ciauri explains a sewer rate survey for the Inyo-Mono region and asks members to fill out if willing. **The Program Office will circulate the Sewer Rate Survey for the June Lake PUD via email to assist them in gaining needed rate data for the region.**
   - Rick Kattelmann announces that today is the last day for comments on the Lahontan RWQCB Agricultural waiver program which affects land use in the Bridgeport Valley. The Mono Co. Supervisors have requested a 30-day extension to the comment period. The waiver is a renewal of a 2007 waiver but the current document has changed substantially. The Bridgeport Ranchers' Organization would like the renewal of the 2007 waiver without the proposed changes. This waiver has the potential to shut down historic agricultural practices in the Bridgeport Valley.
   - **Tony will let the Program Office know if the requested comment period extension is granted for the Lahontan RWQCB Agricultural Waiver Program.**

3. Round 1 Planning Grant (45 min)
   a. General Planning Grant Update
      - Mark summarizes that the Program Office is currently accepting revisions to the current Plan and that once those comments are received the writing of the Phase II Plan will begin. Comment period deadlines will be provided on the new timeline, which can be found at www.inyomonowater.org. **Comments on the current Plan should be provided to Rick Kattelmann by March 1, 2012.**
      - **The Program Office will provide a Word version of the Plan to those individuals interested to facilitate their comments to the current Phase I Plan. Those interested please contact Janet.**
      - Janet gives a brief update on the website and informs the Group of the recent improvements. They include a new Facebook page link as well as a convenient link to the new timeline to assist all members with deliverable dates relevant to all of the different DWR grants.
      - Holly Alpert gives summary of continued outreach under the current Planning Grant which has taken place at both Bridgeport PUD and Big Pine CSD. She feels that good progress was made and that the entities contacted were receptive to the IRWMP. Justin verified that increased communications between the Bridgeport PUD and Bridgeport Indian Colony has continued since the Bridgeport PUD meeting and is moving forward in a positive direction.

   b. DWR Invoice #1: April – October, 2011
      - Holly gives background of the first Planning Grant invoice recently submitted to DWR. She mentions that the Admin. Committee has seen the draft invoice and that for the April-October, 2011, reporting period, $102,000 has been spent. Reimbursement sought in the first round from DWR is approximately $60,000. For the first invoicing period, we have spent approximately 31% of the budget in 50% of the allocated time. For the November-December, 2011, reporting period we will be looking for ways to adjust the budget and schedule in response to what we have learned from the first two invoicing periods. An adjustment to the current schedule will be proposed to fully maximize potential to incorporate the Round 2 Implementation Draft PSP into the Phase II Plan. The new recommended end date for the Round 1 Planning Grant is July 31, 2012. Holly advises that the learning curve for DWR invoicing is steep and we anticipate easier invoice reports for all future reporting periods and other DWR Grants. The invoice will be made available to all Members once it is accepted by DWR.

- It is agreed that the Program Office reports may serve as templates for future grant reporting for all involved in the DWR invoicing process and that there are efficiencies to be gained from the time invested by the Program Staff in learning the DWR invoicing process.

c. Goals Objectives, RMSs Revision Progress

- Austin McInerny recaps that comments were requested from the RWMG pertaining the revised GORMS document. He has taken input from three individuals who provided comment and consolidated them into a final document. He reminds the Group that the overall goal is that the Admin. Committee will review the consolidated comments and come up with a recommendation motion for the April 25 RWMG meeting. Austin summarizes the feedback into some key points: 1) The need to call out strategic goals areas were questioned by the commenters, in that they felt the objectives could stand alone, 2) The need to clarify that the objectives are not prioritized but co-equal objectives, 3) Flood objectives are continuing to gain support, 4) Bob Harrington articulated a new objective relevant to Groundwater, 5) Economic feasibility should be removed as a component of the current objectives. Austin maintains that the majority of the changes were improvements to the language in an effort to yield the most succinct version possible.
- Bob gives supporting comments to his Groundwater objective and explains that seeing the Stormwater objective gave him the notion to create this objective and recognizes the need for more focused objectives. The new suggested objective would be as follows: Note * (RMSs associated with Objective #8 are below. RMSs C,D & E are pre-existing and were taken from Objective #1 and moved here to support the new objective)

  Objective #8: Promote sound groundwater monitoring, management, and mitigation

  A. Support and implement state-mandated groundwater monitoring requirements, and other groundwater monitoring efforts
  B. Promote efforts to monitor, manage, and mitigate effects of large groundwater-using projects
  C. Develop and support projects that mitigate for the effects of groundwater extraction
  D. Protect and improve the quality and quantity of stored groundwater supplies and recharge areas
  E. Identify existing gaps in groundwater and surface water quantity data and undertake appropriate assessments/characterization studies
  F Collect data and monitor groundwater and surface water supply variability

- Bob provides background and justification for the need of an objective such as this. He speaks that the objective is aimed at 2009 State mandate of Groundwater Monitoring (CASGEM) which is currently not funded and that the county lacks the infrastructure to comply with this mandate. He explains the concern of groundwater use in the large solar projects in the Southeast portion of Inyo County. He thinks being able to tap into IRWMP funds for supporting groundwater studies within the region would be beneficial. While noting the concerns regarding groundwater, he argues these larger issues are looming and that we need to address them at some level within the IRWMP.
- Austin invites suggestions as to how to best incorporate groundwater in the GORMS document given the concerns at the last Admin. Committee meeting. He reviews comments from the February 13 Admin. Committee meeting and states that at that meeting it was discussed that by merely having a groundwater objective, it doesn't mean highly controversial projects have to go forward as they will be screened out by the RWMG.
- There is a conversation about how to balance the inclusion of groundwater specific objectives into the IRWM Plan to help support groundwater type projects while remaining sensitive to the controversial nature of the issue in the region.
- The Group discusses the revisions to the GORMS document and how such a document works for the Group. One point made is that the document provides a summarization of issues recognized in the Region. There is concern expressed that the document is getting too complex and makes it difficult for the Group to define what they aim to do.

- Austin notes that although two new objectives were added relevant to Stormwater and Groundwater, the revisions to the current document have in fact made it more succinct and focused and therefore more understandable. He gets support from other Group members recognizing that in fact the document has been focused and consolidated and will serve as an improved tool in the future project ranking process. All agree that the aim is to balance brevity and clarity with the need to adequately represent issues in the Region.
- The Program Office will take the issue of the complexity/brevity of the document into consideration in the Phase I Plan revision process.
- Lori Dermody speaks to the groundwater issue and expresses her neutrality to including Groundwater into the Objectives specifically in relation to CASGEM. However she expresses her concerns relative to including mitigation and reminds the RWMG of the agreement to stay clear of contentious issues. She continues that if the intent is to seek solutions to groundwater issues that could benefit all parties then it seems like a good idea. However if the intent is to support projects that could be used in conflict resolution against the City of L.A. then she questions its place in the IRWMP. Lori reminds the long term members that at the inception of the IRWMP that all involved were in agreement to check contentious issues at the door and thinks this might be an appropriate place to do that.
- Bob reminds the Group that the County has mitigation requirements outside of those with the City of L.A. and that it would be detrimental to not be able to seek financial support for these other mitigation needs.
- Irene supports Bob's proposed objective and argues that revisions like this are exactly what we are looking for in our Plan. She thinks that the uniqueness of our region and the issues that we face can only help strengthen our case for continued funding from the State.
- There is a lengthy discussion regarding groundwater and the high tension brought on at the community level when mentioning a project involving groundwater. This conversation recognized the need for mindful wording with regards to this objective and may include wording such as "Mitigation in cooperation with all affected parties." It is also recognized that this type of wording may be appropriate to other objectives as well.
- **Austin will come up with some suggested wording for the Admin. Committee with regards to the Groundwater objective for the March 21 meeting.**
- **The Program Office will disseminate the next iteration of the Revised GORMS document to MOU signatories with the Admin. Committee Agenda prior to the next Admin. Committee meeting. Those interested in participating in the final revisions to the document are invited and encouraged to participate in the March Admin. Committee meeting.**
- One primary goal of the March Admin. Committee is to provide a recommended motion to the RWMG at the April 25 meeting for adoption of the Revised GORMS document so that it can be included in the Phase II Plan.

d. Project Ranking Process

- Mark gives the overall scope of the Program and includes Planning Grant as well as Implementation schedules. He informs the Group of the process outlined at the Feb. 13 Admin. Committee meeting in preparation to be in a position to respond to future funding rounds. The needed steps for the next Implementation funding round are: 1) Define preliminary ranking Criteria, 2) Draft PSP received, finalize ranking criteria,3) Pre-proposals solicitation, 4) Project Presentations, 5) Project ranking, 6) Final Proposal Submission to DWR. He proposes the establishment of a Working Committee to be tasked with developing standardized framework for both the Fiscal Agent Scope of Services and Project Ranking Criteria Blueprints for project proponents. He solicits interest as well as gives the proposed long term timeline for Round 2 Implementation.
- The Group generally feels like the two processes should be independent of one another and recommends two separate working Committees for each task (RFP and SoS). The importance for progress on each of these committees is acknowledged and agreed that priority should be given to these endeavors in order to maintain the current proposed timeline.
- **RFP Working Committee Volunteers**: Tony Dublino, Bob Harrington, Bruce Woodworth, Dan Jenkins, Jeremiah Joseph, Mark Drew

- **Fiscal Agent SoS Working Committee**: Bruce Woodworth, Pete Bernasconi, Harvey VanDyke, Holly Alpert, Dan Jenkins.
- **Others interested in participating on either of the Working Committees please contact Janet via email ASAP to express interest.**
- **RFP Working Committee will have a recommended standardized ranking structure and Proposal Development process to recommend to the Admin.Committee by the March 21 Admin. Committee meeting with the intention of approval by the RWMG on April 25.**
- **Fiscal Agent SOS Working Committee will have Standardized Scope of Services prepared prior to the Admin.Committee meeting in March for potential review and recommendation (time permitting) to the RWMG at the April 25 RWMG meeting.**

e. 501(c)(3) Update
- No update was given on this agenda item.

f. Phase II Plan Schedule
- The Staff informs the Group that a proposed Phase II Plan review schedule has been posted to the new TIMELINE which can now be found on the Inyo-Mono website and that frequent referral is encouraged. It is estimated that some preliminary chapters will be available for Group review by the end of March.

***** 10 MINUTE BREAK*****

4. **Round 2 Planning Grant (15 min)**
   a. Update on Proposal Progress
   - Holly gives brief overview on Round 2 Planning Grant proposal development progress. Drafts have been received from each project proponent, and the Program Office has provided comment in an effort to standardize all of the proposals received. Those comments will be returned to Project Proponents today and are requested back in final form by Tuesday, February 28 at 5:00 p.m. **The Staff clearly articulates that any proposal submissions received after 5:00 p.m on Feb. 28 will not be included in the Final Proposal to DWR!**

   b. California Trout Scope of Services
   DECISION ITEM: Approve CalTrout Scope of Services
   Recommended Motion: The Admin Committee recommends approving the California Trout Scope of Services document as written.
   - Mark gives evolution of the CalTrout Scope of Services document to date.
   - Bruce suggests changing the wording from the CalTrout Administrative Budget to "not to exceed 12%."
   - **Dan Moore moves to approve the California Trout Scope of Services as amended; noticing the recommended language change that the Round 2 Planning Grant CalTrout Administrative Budget will not exceed 12%. Rick Kattelmann seconds the motion. All approved.**

5. **DAC Grant (20 Min)**
   a. Outreach Training: Lessons learned
   - Holly gives a summary of the recent DAC outreach training. She highlights the major points of the training: 1) Spend time in the community, get to know them, get to know their issues, 2) Don't begin by talking about the IRWMP (It's a difficult concept to start with).
   - Regional problems identified were: 1) Figuring out what a DAC is or what a Community is in the Inyo-Mono region, 2) Dealing with the geographic expanse of the region.

   b. DAC data acquisition
   - A large part of the training was devoted to figuring out the most representative way to define a DAC. The Staff reminds the Group that with 2010 Census data lacking the DAC definition is no longer viable and therefore DWR is looking to these pilot programs to provide alternative definitions for DACs across the State. Those attending came up with the concept of selecting criteria to be used

and then ground-truthing the criteria's relevance/applicability in 10 test communities across the region. It was identified that photo documenting resultant communities will be a powerful way to communicate our findings. This study may also include a short video of the Inyo-Mono region as an additional communication tool to try and present the unique issues we face. The summer months are scheduled to the field testing of these criteria with the intent being to submit a white paper to DWR in January 2013.

c. Conversation with DWR regarding DAC Pilot Project

- The Program Office will seek remaining funds from the DAC pilot project from DWR to help fund these additional aspects of the project.

d. Next Steps

- Mark speaks that the Inyo-Mono region is in a position to help the State define what a DAC is and possibly the opportunity to influence an $11 billion water bond at the legislative level.
- Dan Moore speaks that the school districts have income data as well as other metrics at the school district level that can be provided to the Staff.
- Irene asks if the CA Rural Water summary findings will be made available for the Group. The Program Office has received this summary.
- **Holly will provide a Summary of the CA Rural Water Needs Assessments conducted in 2011 at the April 25, RWMG meeting.**

6. Implementation Grant Update (20 min)
   - Mark mentions that he and Bruce are meeting on Monday, Feb. 27 with DWR to get the lessons learned from Round 1 Implementation and encourages anyone else interested in participating to contact him via email mdrew@caltrout.org . He can set up a conference calling option if needed.

   a. Update from M7

   - M7 members have looked to other IRWM regions for fiscal agent-project proponent contracts. Comments back regarding the contract drafted by Greg James are due by today. Greg will incorporate comments and return a clean draft to submit to Central Sierra by the end of the week.

   b. Update from Central Sierra

   - Bruce summarizes that Central Sierra plans to submit the revised Budget, Schedule, and Workplan to DWR tomorrow. He mentions that DWR will be requiring a Civil Engineer on site for each project with a construction element.
   - There is a discussion about the definition of "technical" in the Central Sierra workplan and M7 members have asked repeatedly for this wording to be changed to "Provides administrative support." Bruce concurred with this point.
   - Again, direct communication is emphasized with M7 Project Proponents on the part of Central Sierra so that information is not filtered or lost in translation.
   - **M7 Project Proponents request that they be included on all email correspondence from Valerie relevant to Implementation projects, instead of receiving emails as a third party.**

   c. Next Steps

   - DWR will provide a draft grant agreement to Central Sierra.
   - **Bruce will send a description from the Grant Agreement with details relevant to the Civil Engineering requirement to M7 members.**

7. Leveraging RWMG Support (15 Min)
   a. Recent requests
   b. Leveraging the RWMG to support member needs
   - Mark gives the background for this agenda item and informs the Group that recently the Program Office has been requested to provide letters of support for various projects or efforts. He expresses the need to identify an efficient process that the Group is comfortable with in providing requested support.

- There is a detailed discussion about how to best go about providing support letters on behalf of the Inyo-Mono IRWM Program. Several differing levels of approval were discussed. Alas, it iwass concluded that a generic letter may be drafted and used in very general circumstances, with the caveat that the Program Office will report to the RWMG when said letters have been issued. Detailed letters of support will need to be agendized and decided upon by the RWMG.
- **Pete Bernasconi will draft a template letter for general Inyo-Mono IRWMP support and provide it to the Program Office for circulation. Comments pertaining to the draft letter can be directed to Pete by March 16th. Approval of a final version of the support letter will be agendized at the April 25 RWMG.**

8. General Updates (15 Min)
   a. Sierra Water Work Group
   - The Program Staff provide updates to the numerous other endeavors they participate in at the State level. These include the Sierra Water Work Group, which aims to leverage Sierra IRWMP regions to make voices heard in Sacramento at a Sierra Wide level. The Program Office will manage their time conservatively regarding this endeavor.

   b. CA Water Plan
   - Mark and Holly are currently serving on the Design Team for the DAC Caucus.
   - Finance Caucus tasked with financial needs of the State. The Inyo-Mono region has been invited to participate in a beta information sharing program.
   - Holly will be sitting on the DWR Climate Change Technical Advisory Group
   - Sustainable Metrics Plan. Resources Legacy Fund. Pilot Projects for sustainable water resource plans.
   - The South Lahontan Regional Forum is finally about to start. Design teams are being put together, and Program Staff will be serving on the design teams for North and South Lahontan and will help to disseminate information and announcements about the regional forums.

   c. WEAP
   - Mark Communicates there is a WEAP meeting scheduled next week with DWR and that interest currently lies at applying this model at a Mammoth Basin/Mono Basin scale. He will be meeting next week in Sacramento with DWR and Lester Snow of the Resource Legacy Fund.

9. Announcements
   - The Department of Fish and Game has revised its proposed regulations governing suction dredge mining in California under the Fish and Game Code. The revised version is now available for review at www.dfg.ca.gov/suctiondredge, and DFG will be accepting public comment on the new draft through 5 p.m. on **Monday, March 5, 2012**.
   - Justification of match hourly rate is required by DWR prior to invoicing reimbursement.
   - **Janet will send out a reminder of the needed match hourly rate justification on official letterhead with the notes.**
   - **Janet will post JAN/FEB Match Forms to Web.**
   - Draft LORP rec use plan venue has been changed; please see the Inyo-Mono website for updated information.

10. Process Check
   - Bob requests information earlier for bringing it to his BOS meetings. **Program Staff will work with Bob, Tony, Leroy, and Irene to ensure that agendas are being circulated in a timely manner.**
   - There is a discussion about the previous project "wish list" and where to go with the list for the future. Some members feel the Group should start over with the creation of a new master needs list. There is disagreement as to the usefulness of the current list to the program or the plan. Several suggestions are made in reference to applying sunset dates to this type of list. Others suggested only generally referencing this type of list in the Plan but instead housing the list on the website so that it maintains needed flexibility. There is conversation about how if the list was more relevant, that it could aid in pre-proposal planning as well as assist in facilitating larger integrated projects where the burden could be

lifted off the smaller entities by only submitting one proposal to cover a multitude of smaller integrated projects.

11. Review January 25, 2012, RWMG meeting notes
    - The new notes summary format is acceptable to the RWMG.

    DECISION ITEM(s):
    1. Approve January 25, 2012 RWMG meeting notes.
    - **Rick moves to approve the January 25, 2012 meeting notes. Bruce seconded the motion. All approved.**

12. Review of action items, decision items, and recommendations from today's meeting
    - Janet reviews the action and decision items.

13. Next Meeting Dates
    a. Next RWMG meeting: Meeting Schedule also available at www.inyomonowater.org
       - Wednesday, April 25, 2012 (Goal: RFP Working Committee Approval of Standardized Framework of both Ranking Criteria and Fiscal Agent Scope of Services)
       - No Meeting in May.
       - Wednesday, June 27(Conference Call : Approve Phase II Plan)
       - Wednesday, July 25 (Goal: Adopt Phase II Plan, R2Implementation Project Presentations)
       - Wednesday, August 22(Report on Project Ranking R2Implemention)
    b. Next Admin. Committee Meeting: **March 21, 2012, 9-11 am**

    - **Tony adjourns the Meeting at 12:29**

AGENDA REQUEST FORM

BOARD OF SUPERVISORS
COUNTY OF INYO

For Clerk's Use Only:
AGENDA NUMBER

15

☐ Consent ☒ Departmental ☐ Correspondence Action ☐ Public Hearing

☐ Scheduled Time for ☐ Closed Session ☒ Informational

FROM: Inyo County Child Support

FOR THE BOARD MEETING OF: April 17, 2012

SUBJECT: Federal Office of Child Support Enforcement Grant

DEPARTMENTAL RECOMMENDATION: Receive Board's recommendation regarding joining with 15 other Local Child Support Agencies of small and rural counties to apply for a five (5) year federal grant relating to employment services for child support customers.

SUMMARY DISCUSSION:

The Administration for Children and Families (ACF), Office of Child Support Enforcement (OCSE) as authorized under Section 1115(a) of the Social Security Act has authority to fund experimental, pilot, or demonstration projects. Demonstration projects must be designed to improve the financial well being of children or improve the operation of the child support program. State IV-D agencies are eligible to receive these grants.

OCSE invites eligible applicants to submit competitive grant applications to develop and implement programs that provide employment services to noncustodial parents in the child support system as part of a national goal. The National Child Support Noncustodial Parent Employment Demonstration Project is being considered by Eastern Sierra Child Support in collaboration with 15 other small, very small and rural counties.

Sierra/Nevada regional agency is taking the lead on grant writing and collaborating with the 15 other counties to develop a concept proposal to provide to the State Department of Child Support Services (DCSS) in mid- April for review. The program, if funded would provide the following components through an inter-agency partnership with Health and Human Services and Social Services: 1) case management; 2) employment oriented services that include job placement and retention services; 3) fatherhood /parenting activities using peer support; and 4) child support order modification to reduce the child support debt owed to the state, and help with parenting plans.

The concept grant proposal is due to DCSS by Friday May 4, 2012. What is envisioned at this time locally is to provide parents who owe child support and have barriers to employment with direct linkage into the social services job skills and life skills programs. The grant would provide funding for these social service programs, staffing, technologies and other resources needed to accommodate court-ordered child support referrals to these locally offered employment services.

Eastern Sierra Department of Child Support recommends your approval of engaging in further concept proposals to obtain funding to expand upon the job skills programing locally through this inter-agency partnership.

ALTERNATIVES: N/A

OTHER AGENCY INVOLVEMENT: Health and Human Services and Social Services.

FINANCING: The duration of the grant, if awarded, would be for five years.

APPROVALS	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS *(Must be reviewed and approved by county counsel prior to submission to the board clerk.)* YES 4.9.12
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS (*Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)* Yes 4/10/12
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.) N/A

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received)

Date: 4/11/12

AGENDA REQUEST FORM

BOARD OF SUPERVISORS
COUNTY OF INYO

☐ Consent xx Departmental ☐ Correspondence Action ☐ Public Hearing
☐ Schedule time for ☐ Closed Session ☐ Informational

For Clerk's Use Only:
AGENDA NUMBER
16

FROM: Inyo County Child Support Agency

FOR THE BOARD MEETING OF: April 17, 2012

SUBJECT: Authorization to recruit for a Administrative Analyst I.

DEPARTMENTAL RECOMMENDATIONS:

Request Board find that, consistent with the adopted Authorized Position Review Policy:

A) the availability of funding for the requested position comes from the Child Support Department, as certified by the Child Support Director, and concurred with by the County Administrator and the Auditor-Controller;

B) where internal candidates meet the qualifications for the position of Administrative Analyst I, the vacancy could possibly be filled through an internal recruitment, but an open recruitment would be more appropriate to ensure qualified applicants apply; and

C) Once the position becomes vacant, approve the hiring of one Administrative Analyst I, Range 66 ($3,757 - $4,574).

CAO RECOMMENDATION:

SUMMARY DISCUSSION:

After years of service with the Child Support Agency, Mrs. Grace Douthitt has announced her impending retirement to take effect July 5, 2012.

In the wake of her retirement the agency is left with an Account Tech II as the sole fiscal position in the region. This position is vitial to the daily operations of the Child Support Departmnet.

The regionalization of the Inyo and Mono County Child support agencies requires the specialized skills and training of a Adminstrative Analyst I in order to effectively analyze and implenent regional fiscal policies and practices. It is recommended that your Board authorize the recruitment of this position.

ALTERNATIVES:

Your Board could decline this request.

This is not recommended, as the Child Support agency is already operating at reduced staffing in the fiscal area post-regionalization. The need for a lead fiscal worker is evident with regions increased responsibilities in the areas of allocation oversight and regional financial planning.

OTHER AGENCY INVOLVEMENT:
Merit Systems Services; Personnel; County Administrative Officer.

FINANCING:
The funding for any position(s) referenced in this reorganization agenda item will be provided through the Child Support Agency Budget 022501 and funding for this position is provided for contingent upon the adoption of the 2011/2012 Board approved budget.

APPROVALS	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS (Must be reviewed and approved by County Counsel prior to submission to the board clerk.) Approved:_____ Date_____
AUDITOR/CONTROLLER	ACCOUNTING/FINANCE AND RELATED ITEMS (Must be reviewed and approved by the auditor/controller prior to submission to the board clerk.) Leslie L. Chapman Approved: ✓ Date 4/11/12
PERSONNEL DIRECTOR	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.) Sue D Approved: ✓ Date 4/9/12

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received) _____ Date: 4/9/12

AGENDA REQUEST FORM

BOARD OF SUPERVISORS
COUNTY OF INYO

For Clerk's Use Only:
AGENDA NUMBER
17

☐ Consent ☒ Departmental ☐ Correspondence Action ☐ Public Hearing

☐ Scheduled Time for ☐ Closed Session ☐ Informational

FROM: CLERK OF THE BOARD
By: Patricia Gunsolley, Assistant Clerk of the Board

FOR THE BOARD MEETING OF: April 17, 2012

SUBJECT: Approval of Minutes

DEPARTMENTAL RECOMMENDATION: - Request Board approve the minutes of the Board of Supervisors Meeting of April 3, 2012.

SUMMARY DISCUSSION: - The Board is required to keep minutes of its proceedings. Once the Board has approved the minutes as requested, the minutes will be made available to the public via the County's web page at www.inyocounty.us.

ALTERNATIVES: - Staff awaits your Board's changes and/or corrections.

OTHER AGENCY INVOLVEMENT: - n/a

FINANCING: n/a

APPROVALS	
BUDGET OFFICER:	BUDGET AMENDMENTS *(Must be reviewed and approved by Budget Officer prior to being approved by others, as needed, and submission to the Assistant Clerk of the Board.)*
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS *(Must be reviewed and approved by county counsel prior to submission to the Assistant Clerk of the Board.)* Approved: _____ Date _____
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS (M*ust be reviewed and approved by the auditor-controller prior to submission to the Assistant Clerk of the Board.)* Approved: _____ Date _____
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS *(Must be reviewed and approved by the director of personnel services prior to submission to the Assistant Clerk of the Board.)* Approved: _____ Date _____

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received) _____ Date: _____
(The Original plus 20 copies of this document are required)

AGENDA REQUEST FORM

BOARD OF SUPERVISORS
COUNTY OF INYO

For Clerk's Use Only:
AGENDA NUMBER
18

☐ Consent ☒ Departmental ☐ Correspondence Action ☐ Public Hearing

☒ Scheduled Time for 10:00 a.m. ☐ Closed Session ☐ Informational

FROM: Inyo County Administrative Officer/County Counsel/Planning Department

FOR THE BOARD MEETING OF: April 17, 2012

SUBJECT: Inyo National Forest Plan Update/Revision

RECOMMENDATION: Conduct a workshop regarding the upcoming Inyo National Forest Plan Update/Revision, provide input to County and Forest Service staffs, and begin prioritizing the County's involvement in the substance and process of the Update/Revision.

SUMMARY DISCUSSION: The U.S. Forest Service recently completed an update to the Forest Planning Rule (refer to Attachment 1). The Inyo National Forest has been selected as one of the first of eight forests nation-wide to be an early implementer of the new Rule. Forest Service staff reports that the planning effort will comply with both the 1982 and 2012 planning rules in case the 2012 rule is litigated (refer to Attachment 2 for the 1982 Rule).

The Inyo National Forest Plan was approved in 1988 and includes numerous amendments, errata, and other modifications; due to its age and format, it is anticipated that a substantial revision and reformat will be necessary. Forest Service staff has indicated that a team approach with the regional office will be undertaken to provide in-house technical expertise to the local office and prepare the Plan Update/Revision. The Center for Collaborative Policy is expected to assist the Forest Service in its public outreach. The varying responsibilities under this arrangement have not yet crystalized.

Forest Planning Rule

The Secretary of Agriculture is required to promulgate and implement a Planning Rule to arrange for development and revision of its land management plans. The Rule was first adopted in 1979 and updated in 1982. A process began in 1991 to again update the Rule, culminating in numerous iterations of new rules, including the adoption of the 2000 Rule and the issuance of the 2008 Rule. In 2009, the newly updated 2008 Rule was invalidated, and the Forest Service was given the authority to rely on the 2000 Rule, which allowed for use of the 1982 Planning Rule. Concurrently, the Forest Service again embarked on updating the Rule, which was approved on March 23, 2012; litigation is expected.

2012 Rule: according to the Forest Service, the 2012 Rule (Attachment 1) is designed to ensure that plans provide for the sustainability of ecosystems and resources; meet the need for forest restoration and conservation, watershed protection, and species diversity and conservation; and assist the Agency in providing a sustainable flow of benefits, services, and uses of Forest Service lands that provide jobs and contribute to the economic and social sustainability of communities. The Rule requires coordination with local government and the use of the best available scientific information.

1982 Rule: if litigation overturns or otherwise delays the 2012 Rule, the 1982 Rule (Attachment 2) will be utilized to proceed. The 1982 Rule describes the process for updating Forest plans for multiple use and sustained yield of goods and services from the National Forest system in a way that maximizes long-term net public benefits in an environmentally sound manner. The plans are to be developed based on national

and regional assessment and programs. Coordination with local governments is required, as well as criteria from the plans and programs of local governments.

Comparison of 1982 and 2012 Rules: the Rules are formatted differently, but share many commonalities:

- Relative to the 2012 Rule, the 1982 Rule provides for analysis of the management situation, which appears similar to the 2012 Rule's requirement for assessment. Therefore, a similar assessment period is expected under both rules.

- The definition of "coordination" under the 1982 Rule varies relative to the 2012 Rule, and the 1982 Rule appears more prescriptive. Regardless, it appears that it is substantively similar to the 2012 Rule, and it is anticipated that coordination would occur similarly under both rules.

- The primary difference between the two rules appears to be the substantive requirements for the plans, including timber and vegetation management, fish and wildlife resources, mining, and grazing. The 2012 Rule appears to address sustainability, diversity of plant and animal communities, and other issues more broadly.

- The appeal process under both procedures is also substantively different.

Based on this analysis and the Forest staff's indication that Plan Update/Revision will proceed regardless of any potential litigation of the 2012 Rule, staff believes that the process under both procedures can be met in a substantively similar manner in the near term. However, as time progresses, meeting the requirements of both rules is expected to become more difficult, and staff expects that the Forest Service will need to proceed under the 1982 Rule in the event of time-consuming litigation regarding the 2012 Rule.

Coordination

The Forest Service intends a comprehensive outreach strategy (refer to Attachment 3) with the assistance of the Center for Collaborative Policy. Staff intends to work closely with Forest staff during all stages of Plan development and hopes to participate in drafting Plan documents. The regional Memorandum of Agreement with the Forest Service provides a framework for the County to work with the Forest, and can be expanded to specifically address the Forest Plan Revision at the local level. This could also be combined and/or supplanted with a cooperating agency agreement, if the issues with cooperating agency status can be addressed in a mutually agreeable manner. Although "cooperating agency" is a concept under the National Environmental Policy Act (NEPA), it is anticipated that the County and the Forest Service could enter into a cooperating agency agreement prior to NEPA initiation. In any case, the primary procedural issue with respect to coordination is expected to be maintaining the confidentiality of draft documents while involving the Board of Supervisors in direct review of those documents.

It will be critical for the County to participate early in the process to shape the Plan's framework. Forest Service staff has indicated that the science synthesis process is scheduled to begin in the near future, and County staff is working with Forest Service staff to participate.

Existing Inyo National Forest Resource Management Plan

The Land and Resource Management Plan for the Inyo National Forest was approved in 1988 to provide for integrated, multiple resource management for all Forest resources through 1997.[1] The Plan prescribes management direction, sets 10- to 15-year objectives, provides for multiple use and sustained yield of goods and services, and works to maximize long-term net public benefits. The Plan was subject to an extensive review process and appeal. Numerous issues and concerns were raised through that process, including most imaginable topic areas.

The Plan is arranged with an Introduction, Issues and Concerns, Summary of the Analysis of the Management Situation, Management Direction, and Monitoring and Evaluation Requirements. The Plan specifies Forest-wide standards and guidelines for a variety of issues, including cultural resources, energy, fish, geology, minerals, pest management, range, recreation, research, sensitive plants, timber, watershed, wilderness, and wildlife. Management prescriptions are provided for numerous topics, including wilderness, mule deer, mountain sheep, the bristlecone pine forest, timber management, range, and recreation. The Plan includes management direction for 20 subareas, including the White Mountains, Rock Creek-Pine Creek, Bishop Creek-Buttermilk, Coyote, Owens Valley Escarpment, Inyo Mountains, Golden Trout, and South Sierra.

Numerous amendments to the Plan exist. The Sierra Nevada Forest Plan Amendment (and its subsequent amendments) is noteworthy. It addresses old forest ecosystems, aquatic, riparian, and meadow ecosystems and associated native plant and animal species, fire and fuels, and noxious weeds on a Sierra-wide scale.

Relevant County General Plan References

The Inyo County General Plan is the constitution for land use issues in the County. The General Plan includes the following seven Elements: Government, Land Use, Economic Development, Housing, Circulation, Conservation/Open Space, and Public Safety. According to the Government Element, management of federal lands should provide for continued and improved access, public recreational facilities, and multi-use management; public agencies should develop new tourist-serving facilities and enhance visitor servicing capacity; and, negative environmental and social impacts from wildlife management should be mitigated. Relevant General Plan references are included in Attachment 4.

Recommended Priorities

It is anticipated that the Forest Plan Update/Revision will be substantial and focus on many of the elements identified in the 2012 Planning Rule, even if the 1982 Rule is utilized. Revision/update of the Plan offers an opportunity for the County's issues to be considered and incorporated into the Plan. Staff believes that the following issues are of utmost importance in the planning process.

- Access – enhanced to accommodate vehicular use, packing, hunting, hiking, and other recreational opportunities. Mitigation opportunities for potential environmental impacts resulting from increased access should be identified and implemented.

    - Roads and trails should be protected and expanded to provide access for recreation and exploration for natural resources.

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[1] Refer to http://www.fs.usda.gov/main/inyo/landmanagement/planning for the Plan and its amendments.

- Roadless Areas should be identified for removal as they are no longer relevant or roadless.
- Conflicts between biological resources and human access should be identified and planned for.

- Vibrant Economy – the Plan should contribute substantially to the local economy due to the impact of the Forest on the County's culture and fiscal health, and should not result in significant socioeconomic impacts.

    - Grazing, Mining, Renewable Energy Production, and other Sustainable Uses – the Plan should support and encourage sustainable uses of the Forest to contribute to the County's economy and culture.
    - Roads and trails should be protected and expanded to provide access for recreation and exploration for natural resources. This type of recreation is an important economic driver for the County.
    - Mitigation Bank – opportunities to shift land acquisition for mitigation of environmental impacts to restoration of degraded wilderness areas should be incorporated into the Plan to accommodate mitigation of human development elsewhere in the County.

These priorities are consistent with the Planning Rule, and can be accommodated by the Forest in a sustainable manner consistent with the principles of restoration and diversity of plant and animal species.

Resources Needed

The Plan Update/Revision will be a substantial undertaking involving many divergent viewpoints. Planning Department staff plans to lead an interdisciplinary team with the assistance of the Administrator and County Counsel. Staff expects to meet regularly with Forest Service staff and involve the Board in coordination.

As the planning process is expected to significantly strain the County's resources, staff recommends that professional services be procured to assist. Mr. Doug Wilson with Willdan has participated previously with Forest Service planning and the Death Valley Backcountry and Wilderness Plan. Due to Mr. Wilson's unique experience in these efforts, staff recommends that Willdan be retained to assist the County with its participation. If additional expertise is required (such as planners, biologists, economists, and/or sociologists), these can be procured through Willdan's in-house specialists or by subcontract.

OTHER AGENCY INVOLVEMENT:

Department of Agriculture, U.S. Forest Service; Mono, Fresno, Madera, and Tuolumne counties; other interested persons and organizations.

FINANCING:

Resources not typically allocated to the Planning Department budget are expected to be needed to participate in the Forest Plan Update/Revision. If the Board agrees, staff plans to work with Willdan staff to develop a scope of work and fee estimate and identify financial resources to support the effort, and will return to the Board for authorization at a future date. Resources from the general fund are usually utilized to monitor federal activities, although other funding sources may be considered for this specific effort.

APPROVALS	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS *(Must be reviewed and approved by county counsel prior to submission to the board clerk.)*
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS (M*ust be reviewed and approved by the auditor-controller prior to submission to the board clerk.)*
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.)

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received)

Date: 4-11-12

Attachments:

1. 2012 Forest Planning Rule
2. 1982 Planning Rule
3. Draft Forest Service Collaborative Planning Handbook
4. Relevant General Plan References

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 219

RIN 0596–AD02

National Forest System Land Management Planning

AGENCY: Forest Service, USDA.

ACTION: Final rule and record of decision.

SUMMARY: The U.S. Department of Agriculture is adopting a new National Forest System land management planning rule (planning rule). The new planning rule guides the development, amendment, and revision of land management plans for all units of the National Forest System (NFS), consisting of 155 national forests, 20 grasslands, and 1 prairie.

This planning rule sets forth process and content requirements to guide the development, amendment, and revision of land management plans to maintain and restore NFS land and water ecosystems while providing for ecosystem services and multiple uses. The planning rule is designed to ensure that plans provide for the sustainability of ecosystems and resources; meet the need for forest restoration and conservation, watershed protection, and species diversity and conservation; and assist the Agency in providing a sustainable flow of benefits, services, and uses of NFS lands that provide jobs and contribute to the economic and social sustainability of communities.

DATES: *Effective Date:* This rule is effective May 9, 2012.

ADDRESSES: For more information, including a copy of the final PEIS, refer to the World Wide Web/Internet at: *http://www.fs.usda.gov/planningrule.* More information may be obtained on written request from the Director, Ecosystem Management Coordination Staff, Forest Service, USDA Mail Stop 1104, 1400 Independence Avenue SW., Washington, DC 20250–1104.

FOR FURTHER INFORMATION CONTACT: Ecosystem Management Coordination staff's Assistant Director for Planning Ric Rine at (202) 205–1022 or Planning Specialist Regis Terney at (202) 205–0895.

SUPPLEMENTARY INFORMATION:

Decision

This document records the decision that the U.S. Department of Agriculture (USDA) reached in determining the alternative that best meets the purpose and need for a new planning rule. The USDA based this decision on the analyses presented in the *Final Programmatic Environmental Impact Statement, National Forest System Land Management Planning* (USDA, Forest Service, 2011) (PEIS). The PEIS was prepared in accordance with the National Environmental Policy Act of 1969 (NEPA).

For the reasons set out in the discussion that follows, the Department hereby promulgates a regulation establishing a National Forest System land management planning rule as described in Modified Alternative A of the *National Forest System Land Management Planning Rule Final Programmatic Environmental Impact Statement* (USDA Forest Service, 2011) with clarifications, and the supporting record. The planning rule describes the process the Forest Service will use for development, amendment, and revision of national forest and grassland plans. It also sets out requirements for the structure of those plans and includes requirements for their content.

This planning rule replaces the final 2000 land management planning rule (2000 rule) as reinstated in the Code of Federal Regulations on December 18, 2009 (74 FR 67062).

Outline

The following outline shows the contents of the preamble which states the basis and purpose of the rule, includes responses to comments received on the proposed rule, and serves as the record of decision for this rulemaking.

Introduction and Background
Purpose and Need for the New Rule
Public Involvement
Summary of Alternatives Considered by the Agency
The Environmentally Preferred Alternative
Decision and Rationale
Compliance with the Endangered Species Act of 1973, as Amended
Response to Comments
Regulatory Certifications
- Regulatory Planning and Review
- Agency Cost Impacts
- Efficiency and Cost-Effectiveness Impacts
- Distributional Impacts
- Proper Consideration of Small Entities
- Energy Effects
- Environmental Impacts
- Controlling Paperwork Burdens on the Public
- Federalism
- Consultation with Indian Tribal Governments
- Takings of Private Property
- Civil Justice Reform
- Unfunded Mandates
- Environmental Justice

Introduction and Background

The mission of the Forest Service is to sustain the health, diversity, and productivity of the Nation's forests and grasslands to meet the needs of present and future generations. Responsible officials for each national forest, grassland, and prairie will follow the direction of the planning rule to develop, amend, or revise their land management plans.

The new planning rule provides a process for planning that is adaptive and science-based, engages the public, and is designed to be efficient, effective, and within the Agency's ability to implement. It meets the requirements under the National Forest Management Act (NFMA), the Multiple-Use Sustained-Yield Act (MUSYA), and the Endangered Species Act, as well as all other legal requirements. It was also developed to ensure that plans are consistent with and complement existing, related Agency policies that guide management of resources on the National Forest System (NFS), such as the Climate Change Scorecard, the Watershed Condition Framework, and the Sustainable Recreation Framework.

The planning rule framework includes three phases: Assessment, plan development/amendment/revision, and monitoring. The framework supports an integrated approach to the management of resources and uses, incorporates the landscape-scale context for management, and will help the Agency to adapt to changing conditions and improve management based on new information and monitoring. It is intended to provide the flexibility to respond to the various social, economic, and ecologic needs across a very diverse system, while including a consistent set of process and content requirements for NFS land management plans. The Department anticipates that the Agency will use the framework to keep plans current and respond to changing conditions and new information over time.

The planning rule requires the use of best available scientific information to inform planning and plan decisions. It also emphasizes providing meaningful opportunities for public participation early and throughout the planning process, increases the transparency of decision-making, and provides a platform for the Agency to work with the public and across boundaries with other land managers to identify and share information and inform planning.

The final planning rule reflects key themes expressed by members of the public, as well as experience gained through the Agency's 30-year history

with land management planning. It is intended to create a more efficient and effective planning process and provide an adaptive framework for planning.

This final planning rule requires that land management plans provide for ecological sustainability and contribute to social and economic sustainability, using public input and the best available scientific information to inform plan decisions. The rule contains a strong emphasis on protecting and enhancing water resources, restoring land and water ecosystems, and providing ecological conditions to support the diversity of plant and animal communities, while providing for ecosystem services and multiple uses.

The 1982 planning rule procedures have guided the development, amendment, and revision of all existing Forest Service land management plans. However, since 1982 much has changed in our understanding of land management planning. The body of science that informs land management planning in areas such as conservation biology and ecology has advanced considerably, along with our understanding of the values and benefits of NFS lands, and the challenges and stressors that may impact them.

Because planning under the procedures of the 1982 rule is often time consuming and cumbersome, it has been a challenge for responsible officials to keep plans current. Instead of amending plans as conditions on the ground change, responsible officials often wait and make changes all at once during the required revision process. The result can be a drawn-out, difficult, and costly revision process. Much of the planning under the 1982 rule procedures focused on writing plans that would mitigate negative environmental impacts. The protective measures in the 1982 rule were important, but the focus of land management has changed since then and the Agency needs plans that do more than mitigate harm. The Agency needs a planning process that leads to plans that contribute to ecological, social, and economic sustainability to protect resources on the unit and maintain the flow of goods and services from NFS lands on the unit over time.

The NFMA requires the Agency to develop a planning rule "under the principles of the Multiple-Use Sustained-Yield Act of 1960, that set[s] out the process for the development and revision of the land management plans, and the guidelines and standards" (16 U.S.C. 1604(g)). The Forest Service fulfills this requirement by codifying a planning rule at Title 36, Code of Federal Regulations, part 219 (36 CFR part 219), which sets requirements for land management planning and content of plans.

In 1979, the Department issued the first regulations to comply with this statutory requirement. The 1979 regulations were superseded by the 1982 planning rule, which has formed the basis for all existing Forest Service land management plans.

In 1989, the Agency initiated a comprehensive Critique of Land Management Planning, which identified a number of adjustments that were needed to the 1982 planning rule. The Critique found that the 1982 planning rule process was complex, costly, lengthy, and cumbersome for the public to provide input. The recommendations in the Critique and the Agency's own experiences with planning led to the Agency issuing an advance notice of proposed rulemaking for a new planning rule in 1991 and proposing a new, revised rule initially in 1995 and again in 1999.

The Department worked with a committee of scientists to develop a final rule, which was issued in 2000. The 2000 revision of the planning rule described a new agenda for NFS planning; made sustainability the foundation for NFS planning and management; required the consideration of the best available scientific information during the planning and implementation process; and set forth requirements for implementation, monitoring, evaluation, amendment, and revision of land management plans. However, a review in the spring of 2001 found that the 2000 rule was costly, complex, and procedurally burdensome. The results of the review led the Department to issue a new planning rule in 2005 and a revised version again in 2008; however, the U.S. District Court for Northern District of California invalidated each of those rules on procedural grounds (*Citizens for Better Forestry* v. *USDA*, 481 F. Supp.2d 1059 (N.D. Cal. 2007) (2005 rule); *Citizens for Better Forestry* v. *USDA*, 632 F. Supp.2d 968 (N.D. Cal. 2009) (2008 rule)).

This final rule replaces the 2000 rule. Because the 2000 rule was the last promulgated planning rule to take effect and not be set aside by a court, the 2000 rule is the rule currently in effect. While the 2000 planning rule replaced the 1982 rule in the Code of Federal Regulations, the transition section of the 2000 rule allowed units to use the 1982 planning rule procedures for plan amendments and revisions until a new planning rule was issued. After the 2008 rule was invalidated, on December 18, 2009, the Department reinstated the 2000 rule in the Code of Federal Regulations and made technical amendments to update transition provisions as an interim measure to be in effect until a new planning rule was issued (74 FR 67062).

The instability created by these past planning rule efforts has caused delays in planning and confused the public. At the same time, the vastly different context for management and improved understanding of science and sustainability that have evolved over the past three decades have created a need for an updated planning rule that will help the Agency respond to new challenges in meeting management objectives for NFS lands.

This final rule is intended to ensure that plans respond to the requirements of land management that the Agency faces today, including the need to provide sustainable benefits, services, and uses, including recreation; the need for forest restoration and conservation, watershed protection, and wildlife conservation; and the need for sound resource management under changing conditions. The new rule sets forth a process that is adaptive, science-based, collaborative, and within the Agency's capability to carry out on all NFS units. Finally, the new rule is designed to make planning more efficient and effective.

Purpose and Need for the New Rule

The NFMA requires regulations consistent with the principles of the Multiple-Use Sustained-Yield Act of 1960, that set out the process for the development and revision of the land management plans and the guidelines and standards the Act prescribes (16 U.S.C. 1604(g)). The Forest Service's experience, evolving scientific understanding of approaches to land management, changing social demands, and new challenges such as changing climate have made clear the need for a revised rule to more effectively fulfill NFMA's mandate.

On August 14, 2009, Agriculture Secretary Tom Vilsack outlined his vision for the future of our nation's forests, setting forth a direction for conservation, management, and restoration of NFS lands. Secretary Vilsack stated that: "It is time for a change in the way we view and manage America's forestlands with an eye towards the future. This will require a new approach that engages the American people and stakeholders in conserving and restoring both our National Forests and our privately-owned forests." The Secretary emphasized that the Forest Service planning process provides an important means for integrating forest restoration,

climate resilience, watershed protection, wildlife conservation, opportunities to contribute to vibrant local economies, and the collaboration necessary to manage our national forests. "Our best opportunity to accomplish this is in the developing of a new forest planning rule for our national forests."

The NFS currently consists of 127 land management plans, 68 of which are past due for revision. Most plans were developed between 1983 and 1993 and should have been revised between 1998 and 2008, based on NFMA direction to revise plans at least once every 15 years. The efforts to produce a new planning rule over the past decade have contributed to the delay in plan revisions. With clarity and stability in planning regulations, land management planning can regain momentum and units will be able to complete revisions more efficiently.

As explained in the Introduction and Background section of this document, the present planning rule is the 2000 planning rule. Under the transition provisions of that rule, the Agency can choose to use either the procedures of the 2000 rule or the planning procedures of the 1982 rule to develop, amend, or revise land management plans. Based on the concerns about implementing the 2000 rule procedures, the Forest Service has been relying upon the 2000 rule's transition provision to develop, amend, and revise land management plans under the 1982 procedures until a new planning rule is in place.

The Forest Service and the Department conclude that the procedures of neither the 2000 rule nor the 1982 rule meet the needs of the Agency today or fulfill the Secretary's vision. Moreover, the Department and the Forest Service have determined that the 2000 rule is beyond the Agency's capability to implement. Even though the Agency has had the option to use the procedures in the 2000 rule, no line officer has chosen to use the 2000 rule to revise or amend a land management plan because the 2000 rule is too costly, complex, and procedurally burdensome. At the same time, the 1982 rule procedures are not current with regard to science, knowledge of the environment, practices for planning and adaptive management, or social values, and are also too complex, costly, lengthy, and cumbersome.

The purpose of, and the need for, a new planning rule is to provide the direction for National Forests and Grasslands to develop, amend, and revise land management plans that will enable land managers to consistently and efficiently respond to social, economic, and ecological conditions.

The Secretary of Agriculture is vested with broad authority to make rules "to regulate occupancy and use and to preserve [the forests] from destruction" (16 U.S.C. 551). The MUSYA authorizes and directs that the national forests be managed under the principles of multiple use and to produce sustained yield of products and services. NFMA directs the Secretary to promulgate regulations for the development and revision of land management plans and prescribes a number of provisions that the regulations shall include, but not be limited to (16 U.S.C. 1600(g)). Based on the principles of the MUSYA, the requirements of NFMA, the Secretary's direction and nearly three decades of land management planning experience, the Department and the Forest Service find that a planning rule must address the following eight purposes and needs:

1. Emphasize restoration of natural resources to make our NFS lands more resilient to climate change, protect water resources, and improve forest health.

2. Contribute to ecological, social, and economic sustainability by ensuring that all plans will be responsive and can adapt to issues such as the challenges of climate change; the need for forest restoration and conservation, watershed protection, and species conservation; and the sustainable use of public lands to support vibrant communities.

3. Be consistent with NFMA and MUSYA.

4. Be consistent with Federal policy on the use of scientific information and the Agency's expertise and experience gained in over thirty years of land management planning.

5. Provide for a transparent, collaborative process that allows effective public participation.

6. Ensure planning takes place in the context of the larger landscape by taking an "all-lands approach."

7. Be within the Agency's capability to implement on all NFS units; be clear; provide an efficient framework for planning; and be able to be implemented within the financial capacity of the Agency.

8. Be effective by requiring a consistent approach to ensure that all plans address the issues outlined by the Secretary and yet allow for land management plans to be developed and implemented to address social, economic, and ecological needs across the diverse and highly variable systems of the National Forest System.

Public Involvement

Public Involvement in the Development of the Proposed Rule and Draft Environmental Impact Statement (DEIS)

The Department and the Agency engaged in an extensive public outreach and participation process unprecedented for the development of a planning rule. A Notice of Intent (NOI) to prepare a new planning rule and an accompanying draft environmental impact statement (DEIS) was published in the **Federal Register** on December 18, 2009 (74 FR 67165). The NOI solicited public comments on the proposal until February 16, 2010. The notice presented a series of substantive and procedural principles to guide development of a new planning rule. Under each principle, the notice posed several questions to stimulate thoughts and encourage responses. The Forest Service received over 26,000 comments in response to the notice.

The Agency held a science forum on March 29 and 30, 2010, in Washington, DC to ground development of a new planning rule in science and to foster a collaborative dialogue with the scientific community. Panels made up of 21 scientists drawn from academia, research organizations, non-government organizations, industry, and the Federal Government presented the latest science on topics relevant to the development of a new rule for developing land management plans. The format was designed to encourage scientists and practitioners to share the current state of knowledge in key areas and to encourage open dialogue with interested stakeholders.

The Forest Service convened a series of four national roundtables held in Washington, DC during the course of developing the proposed planning rule. The intent was to have a national-level dialogue around the concepts for development of the Forest Service proposed planning rule, to get public input prior to developing the proposed rule. The Forest Service also held 33 regional roundtables during April and May 2010 in the following States: Alaska, Arizona, California, Colorado, Georgia, Idaho, Illinois, Montana, Nevada, New Mexico, Oregon, South Dakota, Utah, and Wyoming.

Additionally, the Forest Service Webcast many of the national and regional roundtables, posted materials and summaries of the roundtables online, and hosted a blog to further encourage participation. In all, more than 3,000 members of the public participated in these opportunities to provide their input.

Public Involvement in the Development of the Final Rule and Final Programmatic Environmental Impact Statement (PEIS)

The Department and the Agency used the input provided by the public in response to the NOI and during the roundtables to inform the development of the proposed rule and DEIS. The proposed planning rule and draft programmatic environmental impact statement (PEIS) were published for comment on February 14, 2011 (76 FR 8480). The comment period ran for 90 days through May 16, 2011. The Department received nearly 300,000 comments during the comment period.

Early in the comment period, the Agency held a series of public meetings that provided opportunities for interested persons to ask questions about the proposed rule. The intent of the meetings was to explain the proposed rule and provide information to the public as they developed their comments on the proposed rule. Between March 10, 2011, and April 7, 2001, the Agency held 1 national and 28 regional forums, which reached 72 satellite locations across the country. The national meeting was held in Washington, DC. Regional and satellite meetings were held in the following States: Alabama, Alaska, Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Illinois, Indiana, Kentucky, Michigan, Minnesota, Mississippi, Missouri, Montana, Nevada, New Hampshire, New Mexico, New York, North Carolina, Ohio, Oregon, Pennsylvania, Puerto Rico, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin and Wyoming.

Tribal Involvement

To ensure Tribes and Alaska Native Corporations were heard in a way that gave recognition to their special and unique relationship with the Federal Government, the Agency provided opportunities for participation and consultation throughout the process.

To get input early in the process, the Agency hosted two national Tribal roundtables conducted via conference call in May and August, 2010. Additionally, six Tribal roundtables were held in California, Arizona, and New Mexico. Tribes and Alaska Native Corporations also participated in many of the national and regional roundtables prior to development of the proposed rule.

On September 23, 2010, the Deputy Chief for the National Forest System sent a letter inviting 564 federally recognized Tribes and 29 Alaska Native Corporations to begin government-to-government consultation on the proposed planning rule. The Agency held 16 consultation meetings across the country with designated Tribal officials in November and December, 2010, prior to the publication of the proposed rule in February, 2011. Tribal consultation continued following the release of the proposed rule, with additional opportunities for Tribal consultation provided in 2011.

During the public comment period on the proposed rule the Forest Service held a Tribal teleconference to discuss with Tribes how their previous comments were addressed in the proposed rule. Sixteen Tribes participated in the discussion and had the opportunity to have their questions answered by members of the rule writing team, the Ecosystem Management Coordination Director, and the Associate Chief of the Forest Service. Additionally consultation with Tribes continued at the local level.

Summaries of public involvement may be viewed at *http://www.fs.usda.gov/planningrule.*

Issues Identified in the Programmatic Environmental Impact Statement (PEIS)

Based on public comments, an interdisciplinary team identified a list of issues to analyze:

- Ecosystem Restoration.
- Watershed Protection.
- Diversity of Plant and Animal Communities.
- Climate Change.
- Multiple Uses.
- Efficiency and Effectiveness.
- Transparency and Collaboration.
- Coordination and Cooperation beyond NFS Boundaries.

The PEIS analyzes six fully developed alternatives (A, Modified A, and B through E), and considered nine additional alternatives that were eliminated from detailed study (40 CFR 1502.14(a)). The six fully developed alternatives, with the exception of Alternative B (No Action), meet all aspects of the purpose and need to varying degrees and are described below. The additional alternatives (Alternatives F through N) were considered but eliminated from detailed study because they did not meet some of the aspects of the purpose and need. Chapter 2 of the PEIS provides a more complete discussion of the disposition of these alternatives.

Summary of Alternatives Considered by the Agency

The following summaries describe each alternative. A comparison of the alternatives is available in Chapter 2 of the PEIS.

Alternative A (Proposed Action and Proposed Planning Rule)

Alternative A uses an adaptive framework. The framework consists of a three-part learning and planning framework to assess conditions and stressors; develop, amend, or revise land management plans based on the need for change; and monitor to test assumptions, detect changes, and evaluate whether progress is being made toward desired outcomes.

Alternative A would make the supervisor of the national forest, grassland, prairie, or other comparable administrative unit the responsible official for approving new plans, plan amendments, and plan revisions.

This alternative would require the responsible official to take science into account in the planning process and would require documentation as to how science was considered.

This alternative would require the responsible official to provide opportunities for public participation throughout all stages of the planning process, and includes requirements for outreach, Tribal consultation, and coordination with other planning efforts. This alternative would require responsible officials to provide formal public notification at various points in the process and to post all notifications online. This alternative requires the responsible official to encourage participation by youth, low-income, and minority populations. Alternative A would explicitly require the responsible official to provide the opportunity to undertake consultation with federally recognized Indian Tribes and Alaska Native Corporations and require the responsible official to encourage participation by interested or affected federally recognized Indian Tribes and Alaska Native Corporations. As part of Tribal participation and consultation, the responsible official would invite Tribes to share native knowledge during the planning process. Alternative A would require that the responsible official coordinate planning with the equivalent and related planning efforts of other Federal agencies, State and local governments, and Indian Tribes.

Alternative A would require assessments to identify and evaluate information needed to understand and assess existing and potential future conditions on NFS lands in the context of the broader landscape. These assessments would include a review of relevant information from other governmental or non-governmental assessments, plans, reports, and studies.

Alternative A would require plans to include five plan components—desired conditions, objectives, standards, guidelines, and suitability of areas for resource management. Plans could also include goals as option plan components. Alternative A includes direction for other content required in the plan, including the monitoring program.

Alternative A would require plan components to provide for the maintenance or restoration of the structure, function, composition, and connectivity of healthy and resilient aquatic ecosystems and watersheds in the plan area. In addition, Alternative A would include plan components to guide the unit's contribution to social and economic sustainability.

Under Alternative A, plan components for ecological sustainability would be required to take into account air quality, landscape-scale integration of ecosystems, system drivers and stressors including climate change, and opportunities to restore fire adapted ecosystems. Plan components would also be designed to maintain, protect and restore various ecosystem elements including soil, water, and riparian areas.

Alternative A would require plan components for the conservation of all native aquatic and terrestrial species with the aim of providing the ecological conditions to contribute to the recovery of federally listed threatened and endangered species, conserve candidate species, and maintain viable populations of species of conservation concern. Alternative A would also require monitoring of select ecological and watershed conditions and focal species to assess progress towards meeting diversity and ecological sustainability requirements.

Alternative A would require that plans provide for multiple uses and ecosystem services, considering a full range of resources, uses, and benefits relevant to the unit, as well as stressors, and other important factors.

Alternative A would require plan components for sustainable recreation, considering opportunities and access for a range of uses. Recreational opportunities could include non-motorized, motorized, developed, and dispersed recreation on land, water, and air. In addition, plans should identify recreational settings and desired conditions for scenic landscape character.

Alternative A includes requirements for plan components for timber, consistent with the requirements of NFMA.

Alternative A provides an efficient process for amendments, required for any substantive change to plan components, and for administrative changes to make corrections or changes to parts of the plan other than the plan components.

Alternative A requires plan-level and broader-scale monitoring, to inform adaptive management.

Alternative A would require an environmental impact statement for new plans and plan revisions. Plan amendments would require either an environmental impact statement or an environmental assessment, or could be categorically excluded from documentation, based on the significance of effects pursuant to Agency NEPA procedures.

Alternative A would require that the decision document for the plan include the rationale for approval, an explanation of how the plan components meet the requirements for sustainability and diversity, best available scientific information documentation, and direction for project application.

Alternative A requires that projects and activities must be consistent with the plan components, and provides direction for determining consistency. It also requires that other resource plans that apply to the plan area be consistent with the plan components.

The responsible official initiating a plan revision or development of a new plan before Alternative A went into effect would have the option to complete the plan revision or development of the new plan under the prior rule or conform to the requirements of the final rule after providing notice to the public. All plan revisions or new plans initiated after the effective date of the final rule would have to conform to the new planning requirements.

Alternative A includes a severability provision, stating if parts of Alternative A are separately found invalid in litigation, individual provisions of the rule could be severed and the other parts of the rule could continue to be implemented.

Alternative A provides a pre-decisional administrative review (objection) process for proposed plans, plan amendments, and plan revisions. The objection process is based on the objection regulations for certain proposed hazardous fuel reduction projects, found at 36 CFR part 218, and is intended to foster continued collaboration in the administrative review process.

The complete text of Alternative A is provided in Appendix A of the PEIS.

Reason for non-selection: Alternative A meets the purpose and need and responds to the significant issues displayed in the PEIS in a manner very similar to Modified Alternative A. The Department received a large number of public comments on Alternative A including suggestions about how to change Alternative A, improve clarity, and better align the text of the alternative with the Department's intent as described in the preamble for the proposed rule. The Department developed Modified Alternative A after considering public comments. Modified Alternative A is described below. Alternative A was not selected because the Agency developed Modified Alternative A in response to public comment. For this reason, Alternative A was not selected as the final rule.

Modified Alternative A (Final Rule)

Modified Alternative A, with clarifications, was selected as the final rule, (see the Decision and Rationale section of this document).

Modified Alternative A includes the same concepts and underlying principles as Alternative A, and retains much of the same content. However, a number of changes to the rule text and organization have been made, based on public comment on the proposed rule (Alternative A) and the DEIS. The Forest Service considered the available option of replacing the text of Alternative A with the text of Modified Alternative A in the PEIS. However, because Modified Alternative A looks different than Alternative A, the Agency included it as a new alternative for transparency and for the ease of the reviewer in comparing the proposed rule with the final preferred alternative.

Modified Alternative A uses an adaptive framework for planning. The framework consists of a three-part learning and planning framework to assess information relevant to the plan area, develop, amend, or revise land management plans based on the need for change, and monitor to test assumptions, detect changes, and evaluate whether progress is being made toward desired outcomes.

Modified Alternative A would make the supervisor of the national forest, grassland, prairie, or other comparable administrative unit the responsible official for approving new plans, plan amendments, and plan revisions. The Chief would be required to establish a national oversight process for consistency and accountability.

Modified Alternative A would require the responsible official to use the best available scientific information to inform the planning process, plan components, and other plan content including the monitoring program, and

includes requirements for documentation of how the best available scientific information was used to inform the plan decision.

Modified Alternative A would require the responsible official to provide opportunities for public participation throughout all stages of the planning process, and includes requirements for outreach, Tribal consultation, and coordination with other planning efforts. Modified Alternative A requires the responsible official to encourage participation by youth, low-income, and minority populations. Modified Alternative A would explicitly require the responsible official to provide the opportunity to undertake consultation with federally recognized Indian Tribes and Alaska Native Corporations and require the responsible official to encourage participation by interested or affected federally recognized Indian Tribes and Alaska Native Corporations. As part of Tribal participation and consultation, the responsible official would invite Tribes to share native knowledge during the planning process. Modified Alternative A would require that the responsible official coordinate planning with the equivalent and related planning efforts of other Federal agencies, State and local governments, and Indian Tribes.

Modified Alternative A would require assessments to rapidly identify and evaluate existing information relevant to the plan area to understand and assess existing and potential future conditions on NFS lands in the context of the broader landscape, focused on a set of topics that relate to the requirements for plan components and other plan content. These assessments would include a review of relevant information from other governmental or non-governmental assessments, plans, reports, and studies.

Modified Alternative A would require plans to include five plan components—desired conditions, objectives, standards, guidelines, and suitability of areas for resource management. Plans could also include goals as option plan components. Modified Alternative A includes direction for other content required in the plan, including the monitoring program.

Modified Alternative A would require plan components to provide for the maintenance or restoration of the ecological integrity of terrestrial and aquatic ecosystems and watersheds in the plan area. In addition, Modified Alternative A would include plan components to guide the unit's contribution to social and economic sustainability.

Under Modified Alternative A, plan components for ecological integrity would be required to take into account the interdependence of ecosystems, impacts from and to the broader landscape, system drivers and stressors including climate change, and opportunities to restore fire adapted ecosystems and for landscape scale restoration. Plan components would be also be required to maintain or restore air, soil and water resources, and to maintain or restore the ecological integrity of riparian areas.

Modified Alternative A would require that plans use a complementary ecosystem and species-specific approach to provide for the diversity of plant and animal communities and maintain the persistence of native species in the plan area. Ecosystem plan components would be required for ecosystem integrity and diversity, along with additional, species-specific plan components where necessary to provide the ecological conditions to contribute to the recovery of federally listed threatened and endangered species, conserve proposed and candidate species, and maintain viable populations of species of conservation concern. Modified Alternative A would also require monitoring of select ecological and watershed conditions and focal species to assess progress towards meeting diversity and ecological sustainability requirements.

Modified Alternative A would require that plans provide for ecosystem services and multiple uses, considering a full range of resources, uses, and benefits relevant to the unit, as well as stressors and other important factors.

Modified Alternative A would require plan components for sustainable recreation, including recreation settings, opportunities, access; and scenic character. Recreational opportunities could include non-motorized, motorized, developed, and dispersed recreation on land, water, and air.

Modified Alternative A includes requirements for plan components for timber management, consistent with the requirements of NFMA.

Modified Alternative A provides an efficient process for amendments, required for any substantive change to plan components, and for administrative changes to make corrections or changes to parts of the plan other than the plan components.

Modified Alternative A requires plan-level and broader-scale monitoring to inform adaptive management.

Modified Alternative A would require an environmental impact statement for new plans and plan revisions. Plan amendments would require either an environmental impact statement or an environmental assessment, or could be categorically excluded from documentation, based on the significance of effects pursuant to Agency NEPA procedures.

Modified Alternative A would require that the decision document for the plan include the rationale for approval; an explanation of how the plan components meet the requirements for sustainability, diversity, multiple use and timber; best available scientific information documentation; and direction for project application.

Modified Alternative A requires that projects and activities must be consistent with the plan components, and provides direction for determining consistency. It also requires that other resource plans that apply to the plan area be consistent with the plan components.

Modified Alternative A would require responsible officials to provide formal public notification at various points in the process and to post all notifications online.

The responsible official initiating a plan revision or development of a new plan before Modified Alternative A went into effect would have the option to complete the plan revision or development of the new plan under the prior rule or conform to the requirements of the final rule after providing notice to the public. All plan revisions or new plans initiated after the effective date of the final rule would have to conform to the new planning requirements.

Modified Alternative A includes a severability provision, stating if parts of Alternative A are separately found invalid in litigation, individual provisions of the rule could be severed and the other parts of the rule could continue to be implemented.

Modified Alternative A provides a pre-decisional administrative review (objection) process for proposed plans, plan amendments, and plan revisions. The objection process is based on the objection regulations for certain proposed hazardous fuel reduction projects, found at 36 CFR part 218, and is intended to foster continued collaboration in the administrative review process.

As is clear from this summary, Modified Alternative A includes the same concepts and underlying principles as Alternative A, and retains much of the same content. However, a number of changes to the rule text and organization were made based on public comment on the proposed rule (Alternative A) and the DEIS.

Many people commented that the proposed rule lacked clarity and was ambiguous in places. Others felt that the intent stated in the preamble of the proposed rule was at times not reflected in the actual text of the proposed rule itself. They were concerned that this ambiguity would lead to inconsistent implementation of the rule and that the intent as expressed in the preamble would not be realized. Modified Alternative A rewords the text in a number of places to improve clarity and better reflect the Department's intent as stated in the preamble to the proposed rule.

There are also a number of changes to the process and content requirements of Alternative A, to address certain concerns raised by the public, reduce process, and make other modifications in response to public comments. A complete description of these changes is provided in the Response to Comments section of this document.

A detailed analysis was conducted to determine if there were any difference in programmatic effects between Alternative A and Modified Alternative A. Because Modified Alternative A was developed to reflect the intent of Alternative A, there were very few differences in programmatic effects between the two alternatives. The few differences in programmatic effects between Alternative A and Modified Alternative A were to plan content and the planning process (requirements for assessments, documentation, notification, plan components) or to the costs of implementation. Any differences in effects to resources cannot be determined at this programmatic level. However, the Department concludes the added clarity in Modified Alternative A will lead to more consistent implementation of the rule.

The full text of Modified Alternative A can be found in Appendix I of the PEIS and is set out as the final rule below. A detailed description of changes to Alternative A that led to Modified Alternative A can be found in the Response to Comments section of this document and in Appendix O of the PEIS. An analysis of the effects of Modified Alternative A has been included in Chapter 3 of the PEIS.

Alternative B (No Action)

The "No Action" alternative, as stated by the Council on Environmental Quality, "may be thought of in terms of continuing with the present course of action until that action is changed" (Council on Environmental Quality, Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations, 46 FR 18026, 18027 (March 23, 1981)). The "No Action" alternative is the 2000 planning rule, which, since the 2008 rule was set aside by court order, is the current rule (see 74 FR 67059 (December 18, 2009)). If the Department chooses to take no action, the 2000 rule would remain in effect. However, the "present course of action" under the 2000 rule is not to use the 2000 rule in its entirety but to use its transition provisions at 36 CFR 219.35, which allow use of the 1982 rule procedures to develop, amend, and revise land management plans until a new planning rule is in place. Since identifying a set of issues with the 2000 rule provisions, as explained in the PEIS at Chapter 1 and in the discussion section of Alternative F, the Forest Service has been relying upon the 2000 rule's transition wording at § 219.35 to use the 1982 rule procedures to develop, amend, and revise land management plans.

The 1982 rule, as amended, is in Appendix B of the PEIS. However, only the provisions of that rule applicable to the development, amendment, and revision of land management plans are available for use pursuant to 36 CFR 219.35 of the current (2000) rule. The 1982 rule procedures require integration of natural resource planning for national forests and grasslands, by including requirements for integrated management of timber, range, fish and wildlife, water, wilderness, and recreation resources, with resource protection activities such as fire management, and the use of other resources such as minerals.

An appeal process has been used throughout the life of the 1982 planning rule. Under § 219.35 of the current (2000) rule, responsible officials have the option of using either a post-decisional appeal process or a pre-decisional objection process for challenging plan approval decisions.

The 1982 rule procedures require regional foresters to be the responsible official for approval of new plans and plan revisions.

Alternative B would continue to require an environmental impact statement for new plans and plan revisions. Documentation for plan amendments would continue to be determined by the significance of effects pursuant to Agency NEPA procedures and could, therefore, range from categorical exclusions to environmental impact statements.

Rule text for this alternative is provided in Appendices B, C, and D of the PEIS, which contain planning provisions, transition provisions, and administrative review provisions respectively.

Reason for non-selection: Alternative B is the no action alternative. The 1982 rule procedures are not current with regard to science, knowledge of the environment, practices for planning and adaptive management, or social values, and are unduly complex, costly, lengthy, and cumbersome. For those reasons, the Agency has actively been trying to promulgate a new planning rule to replace the 1982 planning procedures for over a decade (see Introduction and Background section above).

Many plans recently revised under the 1982 planning procedures reflect elements of the purpose and need such as emphasizing restoration, addressing climate change, using a coarse-filter/fine-filter approach for maintaining species diversity, and using a collaborative approach to planning. However, the 1982 planning procedures do not require consideration of these and other important elements in planning that reflect current science, Agency expertise, and best practices in planning. This has resulted in inconsistent incorporation of the elements of the purpose and need in plans.

Alternative B reflects an approach to land management planning that focused on producing outputs (for example, board feet of timber, recreation visitor days, and animal months of grazing) and mitigating the effects of management activities on other resources. The Agency recognizes and supports the importance, value, and legal responsibility of providing for multiple use purposes. Timber, grazing, recreation, and other multiple uses supported on NFS lands provide jobs and income to local communities, and products used by all Americans. However, land management planning today focuses on managing toward desired conditions, or outcomes, rather than focusing simply on outputs.

Outcome-based planning shifts the focus from how to get something done to why it is done. In contemporary planning, outputs are services that are generated as projects and activities are carried out that lead to desired outcomes on the ground. Outcome based planning is well supported by the Agency's experience in land management planning. This approach to planning is also well supported by other land and urban planning agencies at all scales—from urban planning for small cities to international level planning efforts. It is also extensively used in the fields of education, health care, economics, and others. Outcome based planning can and does occur under

Alternative B. However, this approach is not required under this alternative.

Alternative B does not meet several elements of the purpose and need. Alternative B does not:

- Emphasize restoration of natural resources to make our NFS lands more resilient to climate change, protect water resources, and improve forest health.
- Ensure all plans will be responsive to issues such as the challenges of climate change; the need for forest restoration and conservation, and watershed protection.
- Be consistent with Federal policy on the use of scientific information and the Agency's expertise and experience gained in more than 30 years of land management planning.
- Ensure planning takes place in the context of the larger landscape by taking an "all-lands approach."

Alternative B has also proven costly to implement. The 1982 planning procedures require complex analysis processes, such as benchmark analysis, resulting in plan revisions that have, on average, taken 5 to 7 years to complete. In 1989, the Forest Service, with the assistance of the Conservation Foundation, conducted a comprehensive review of the planning process and published the results in a summary report, "Synthesis of the Critique of Land Management Planning" (*http://www.fs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb5127602.pdf*). The Critique found that the planning process of the 1982 rule was very complex, had significant costs, took too long, and was too cumbersome.

Finally, Alternative B includes planning procedures that do not reflect current science or result in unrealistic or unattainable expectations because of circumstances outside of the Agency's control, particularly for maintaining the diversity of plant and animal species. The 1982 rule at 36 CFR 219.19 requires that fish and wildlife habitat shall be managed to maintain viable populations of existing native and desired non-native vertebrate species in the planning area. For planning purposes, a viable population shall be regarded as one which has the estimated numbers and distribution of reproductive individuals to insure its continued existence is well distributed in the planning area. In order to insure that viable populations will be maintained, habitat must be provided to support, at least, a minimum number of reproductive individuals and that habitat must be well distributed so that those individuals can interact with others in the planning area. These requirements do not recognize that there are limitations on the Agency's authority and the inherent capability of the land. In addition, these requirements do not reflect the most current science. For example:

(1) At times, circumstances that are not within the *authority* of the Agency limit the Agency's ability to manage fish and wildlife habitat to insure the maintenance of a viable population of a species within the plan area, such as:

- Forest clearing in South America—South American forests provide important wintering areas for many Neotropical birds that nest in North America. The clearing of these forests for agricultural purposes poses a serious threat to the long-term viability of the Cerulean warbler and the ability of national forests in the southern Appalachian Mountains to maintain populations of this species.
- Hydropower facilities in the Pacific Northwest and off-shore fishing harvest practices—These facilities and practices are primary downstream threats to Chinook salmon populations whose spawning beds may occur on stream reaches within national forests in the Intermountain West, thus affecting the ability of national forests within this salmon's range to maintain viable populations of this species on their respective units.
- Land use patterns on private lands within and adjacent to NFS units, such as the continuing agricultural uses and urbanization that is occurring east of the Rocky Mountains—habitat fragmentation as a result of these changes reduces available habitat and further isolates existing swift fox populations. This affects the ability of national grasslands in eastern Colorado to maintain viable populations of this species.

(2) At times, it may be beyond the Agency's authority to manage habitat to insure the maintenance of a viable population of a species within the plan area, given that the Agency must comply with all applicable laws and regulations. An example would be when efforts to maintain the habitat conditions necessary for a viable population of one species would jeopardize an endangered or threatened species, in violation of the Agency's statutory obligations under the ESA. Another example would be when maintaining the habitat conditions necessary for a viable population of one species would consume the resources available to a unit to the point of precluding other activities from occurring on the unit that are necessary to comply with independent statutory or regulatory requirements.

(3) Examples of circumstances that are not consistent with the *inherent capability* of the plan area that limit the Agency's ability to manage fish and wildlife habitat to insure the maintenance of a viable population of a species within the plan area include:

- Where a species is inherently rare because its members occur at low numbers and are wide ranging individuals. For such a species the number of breeding individuals that may occur on an individual national forest may be too small to be considered a viable population. The wolverine of the northern Rocky Mountains is such a species.
- Plan areas that lack sufficient land area with the ecological capacity to produce enough habitat to maintain a viable population within the plan area. An example is the Kisatchie National Forest's inability to maintain a viable population of swallow-tailed kite on the Forest due to very limited amounts of land area ecologically capable of producing broad bottomland hardwood and cypress swamp habitats.
- Water quality conditions in Appalachian Mountain streams that provide habitat for eastern brook trout have been altered through acid deposition, due to past and current acid rain, rendering many of them unsuitable for brook trout and compromising the ability of some Appalachian national forests to maintain viable populations of this species.

(4) Sometimes a combination of a lack of authority and the inherent capability of the land limit the Agency's ability to manage fish and wildlife habitat to "*insure* [a vertebrate species'] continued existence is well distributed in the planning area," for example, a federally listed threatened or endangered species may face a combination of stressors such that a population may no longer be viable and whose recovery, in most cases, cannot be achieved within the boundaries of a single unit.

(5) An example of an approach included in the 1982 requirements that is no longer supported by the best available scientific information is the concept of management indicator species (MIS). The 1982 rule is largely reliant on the ability of selected MIS and their associated habitat conditions to adequately represent all other vertebrates in the plan area for assessing vertebrate species viability. Even though the process of assessing and selecting MIS has evolved, the ability of a species or species group, on its own, to adequately represent all associated species that rely on similar habitat conditions is now largely unsupported in the scientific literature.

For these reasons Alternative B was not selected as the final rule.

Alternative C

Alternative C was developed to meet the minimum requirements of NFMA, with additional provisions narrowly designed to meet the purpose and need for this rule-making effort.

Provisions to meet the purpose and need, but not otherwise required by NFMA, were included in this alternative to ensure that plans would be responsive to the challenges of climate change, the need for forest restoration, and to ensure the sustainable use of NFS lands to support vibrant communities. The full text of Alternative C is displayed in Appendix E of the PEIS. Specifically, the multiple uses provision in this alternative at § 219.10 requires plan components to include guidance to identify and consider climate change, forest restoration and conservation, and social and economic elements of sustainability to support vibrant rural communities. Provisions were also added to ensure that plans would be developed in a collaborative manner. The public participation provision in this alternative at § 219.4 requires the responsible official to use a collaborative and participatory approach to land management planning. The same provisions for pre-decisional objections found in Alternative A are also included in this alternative.

Unlike the other alternatives considered in detail, this alternative would not explicitly require preparation of an environmental impact statement for development of a new plan or for a plan revision. Instead, this alternative would rely on Agency NEPA implementing procedures at 36 CFR part 220 to determine the level of environmental analysis and documentation. Similar to other alternatives considered in detail, documentation for plan amendments would be determined by the significance of effects pursuant to Agency NEPA procedures and could, therefore, range from categorical exclusions to environmental impact statements.

Reason for non-selection: Alternative C imposes the fewest specific requirements for the planning process and plan content of all alternatives analyzed in detail. This alternative reflects the opposite end of the spectrum from Alternative E (the most prescriptive of the alternatives). Under Alternative C the process of plan development, amendment, and revision would be largely guided by the Forest Service Directives System. The result of having few requirements in a rule is greater uncertainty as to what the effects on plan content and the planning process would be and as a result, greater uncertainty as to potential effects to resources over time.

Under Alternative C, the Agency would expect a range of results: The range might vary from an expedited planning process producing very streamlined plans on some units to a planning process and plans that are similar to those plans that have been recently revised using the 1982 planning procedures on other units. There would be no certainty with regard to the inclusion of any plan components beyond the minimum required by this Alternative, and a potential lack of consistency across the National Forest System.

A similar approach of developing a streamlined planning rule and relying on the Forest Service directives for details of implementation was used for the 2008 planning rule. The uncertainty of this approach generated a great deal of distrust by many members of the public who felt the full intent of management direction related to planning should be reflected in the rule.

Alternative C does not expressly include an adaptive management framework. The Department concludes that the adaptive management framework of assessing, revising, amending, and monitoring provides a scientifically supported foundation for addressing uncertainty, understanding changes in conditions that are either the result of management actions or others factors, and keeping plans current and relevant.

This is the least costly of all of the alternatives and that is an important consideration. However, there are other alternatives that would reduce the current costs of planning, have broader based public support, and that, in the Department's view, provide for a more appropriate balance between prescriptive and non-prescriptive approaches to planning.

Even though Agency costs are lower under Alternative C compared to other alternatives, the Department is uncertain whether plans will be developed, amended, or revised to the high standards of excellence the Department expects. All units would comply with the requirements of this alternative. However, there is higher uncertainty associated with selecting an alternative with few requirements as the final rule. The level of uncertainty results in a higher risk that the level of compliance with such important elements as monitoring, public participation, species conservation, or watershed protection may not lead to plans that meet the Department's full objectives.

For these reasons, Alternative C was not selected as the final rule.

Alternative D

The full text of Alternative D is displayed in Appendix F of the PEIS. This alternative consists of Alternative A with additional and substitute direction focused on coordination requirements at § 219.4, assessment requirements at § 219.6, sustainability requirements at § 219.8, species requirements at § 219.9, monitoring requirements at § 219.12, and some additional and alternative definitions at § 219.19.

This alternative was designed to evaluate additional protections for watersheds and an alternative approach to addressing the diversity of plant and animal communities. These approaches were addressed together because they both involve requirements for substantive plan content for resource protection, as opposed to other issues that are concerned with procedural requirements.

Unlike Alternative A, this alternative requires establishment of riparian conservation areas and key watersheds, prescribes a 100-foot width for riparian conservation areas, and places the highest restoration priority on road removal in watersheds. Watershed assessments would be required to provide information for defining riparian conservation area boundaries and developing watershed monitoring programs. The alternative would require the identification of key watersheds to serve as anchor points for the protection, maintenance, and restoration of habitat for species dependent on aquatic habitat. It would also require plans to provide spatial connectivity among aquatic and upland habitats.

This alternative would take a somewhat different approach than Alternative A for maintaining viable populations within the plan area. It would require an assessment prior to plan development or revision that identifies: current and historic ecological conditions and trends, including the effects of global climate change; ecological conditions required to support viable populations of native species and desired non-native species within the planning area; and current expected future viability of focal species within the planning area. It would also require that the unit monitoring program establish critical values for ecological conditions and focal species that trigger reviews of planning and management decisions to achieve compliance with the provision for

maintaining viable populations within the plan area.

See Appendix F of the PEIS for Alternative D text in a side-by-side comparison with Alternative A.

Reason for non-selection: Alternative D meets the purpose and need in a manner similar to Alternative A. Alternative D includes additional requirements for watershed and species protection and collaboration that provide among the highest levels of watershed and species conservation of all alternatives. However, Alternative D has the second highest planning and monitoring costs of all alternatives, and there are several requirements of Alternative D that would be difficult to implement or not appropriate across all NFS units.

This alternative capitalizes on approaches for watershed management that have been demonstrated to be effective in some areas of the country—largely the Pacific Northwest. However, a single, prescriptive approach may not be effective for improving watershed conditions across the highly diverse watersheds of the NFS.

For example, it is unlikely that the requirements of this Alternative that all plans establish watershed networks that can serve as anchor points for the protection, maintenance, and restoration of broad-scale processes and recovery of broadly distributed species and to maintain spatial connectivity within or between watersheds would be an effective management strategy for improving watershed conditions on certain units, for example, where the percentage of NFS land ownership in a given watershed is very low. Such requirements also may not be the most effective means of maintaining or restoring watershed health on these or other units, and attempting to meet this requirement may preclude other more effective management options.

Alternative D includes a national standard for a minimum 100 foot default width for riparian conservation areas. Based on the analysis in the PEIS, a national standard setting a minimum default width applicable to all types of waterbodies and in all geomorphic settings is not consistent with the preponderance of scientific literature which largely argues for scalable widths, widths tailored to geomorphic settings or an adaptable approach matched to resource characteristics. The national standard does provide certainty or assurance that all riparian areas of 100 feet or less would be fully incorporated within the riparian conservation area, even where narrower widths would be more appropriate based on geomorphic features, conditions, or type of water bodies. However, to expand the default width beyond 100 feet will require a "burden of proof" during the planning process that some units may not be willing or able to accomplish, which could lead to the width being under inclusive for riparian areas in the plan area.

Alternative D requires standards to restore sediment regimes to within a natural range of variability. While an understanding of the natural range of variability in sediment regime could provide important context for sediment reduction activities, standards to restore sediment regimes to a natural range of variability might be impractical as they require information on historical flow regimes that might not be applicable to future conditions. Historical ranges of variation as standards or guidelines for restoration may be inappropriate in the face of changing hydrologic conditions brought about by climate change. The added requirements are likely not appropriate for all NFS units, will be data intensive, and might constrain or delay other management actions that could address known sediment problems.

This alternative requires that road removal or remediation in riparian conservation areas and key watersheds be considered a top restoration priority. Setting one primary national restoration priority for all units does not take into account the high variability of conditions and stressors across NFS lands. Also, it does not take into account changing conditions. While road remediation in riparian areas will likely be the highest priority in some places or at some times, it might not be for all units and across the entire life of a plan. For example, it might be more important to shift restoration focus to control a new occurrence of invasive species before it becomes pervasive in a watershed, or to reduce hazardous fuels to reduce the risk of negative effects to soil and water of uncharacteristic or extreme wildfire events.

Finally, Alternative D requires that, with limited exceptions, only management activities for restoration would be allowed in riparian areas. The Department understands the importance and supports the protection of healthy functioning riparian areas for water quality, water quantity, and aquatic and terrestrial habitat. The Department also understands the potential negative effects that management activities or uses such as dispersed or developed recreation, grazing, and water level management can have on riparian areas. However, the Department concludes that decisions regarding management activities in riparian areas are better made at the individual plan and project levels where the effects to the resources, to the users, and to communities can be better determined within the context of overall watershed restoration and the maintenance and restoration of the ecological integrity of riparian areas in the plan area.

None of the individual elements of Alternative D is inconsistent with the final planning rule and they could be incorporated at the plan level into plan direction where they are determined to be applicable and effective for those units. In fact, many current plans already incorporate elements of this alternative. However, requiring incorporation of all elements of Alternative D does not provide enough flexibility for effective and efficient resource management on all units of the NFS.

For these reasons Alternative D was not selected as the final rule.

Alternative E

The full text of Alternative E is displayed in Appendix G of the PEIS. This alternative consists of the proposed rule (Alternative A) with additional and substitute direction focused on prescriptive requirements for public notification at § 219.4, assessment requirements at § 219.6, and monitoring requirements at § 219.12.

This alternative prescribes an extensive list of monitoring and assessment questions and requires plan monitoring programs to identify signals for action for each question and its associated indicator.

This alternative specifies performance accountability for line officers' management of unit monitoring and adds responsibility for the Chief to conduct periodic evaluations of unit monitoring programs and the regional monitoring strategies.

Alternative E adds more prescriptive requirements for public participation in the planning process. To help connect people to the outdoors, this alternative also includes requirements for plans to provide for conservation education and volunteer programs.

See Appendix G of the PEIS for Alternative E text in a side-by-side comparison with Alternative A.

Reason for non-selection: Alternative E requires more evaluation of ecological conditions and possible scenarios during assessment for plan revisions and more monitoring of specific conditions and responses to restoration. The use of signal points could potentially make land managers more aware and responsive when monitoring results are outside of expected levels. However, the difficulty of establishing

statistically and temporally significant signal points related to restoration, especially where there is insufficient data and where conditions are changing, will increase the complexity of planning. The prescriptive nature of the monitoring requirements could increase the ability to aggregate and compare data between units or at higher scales but could also result in the costly collection of data that is not necessarily relevant to the management of particular individual units or ecological conditions.

Requirements to identify possible scenarios in assessments would have short-term cost increases with possible long-term gains in efficiency. Additional requirements regarding coordination in the assessment and monitoring process would increase initial costs, but consistent coordination might also result in more cost-effective long-term planning efforts to meet viability objectives. However, while additional requirements for standardized collaboration methods might work well for some units, other units might find that some required steps are not relevant to their local public involvement needs. Based on the analysis in the PEIS, collaboration strategies tailored to a unit's particular needs are often more effective than very prescriptive approaches to collaboration.

The PEIS points out potential benefits of more prescriptive requirements for assessment, monitoring, and collaboration. But, the PEIS also points out the drawbacks, particularly in trying to efficiently apply a "one-size-fits-all" approach to such things as monitoring or collaboration across highly diverse resources conditions and communities associated with NFS Units. This Alternative also has the highest implementation costs of all alternatives. The Department does not believe that the potential gains in effectiveness warrant the increased costs.

None of the individual elements of Alternative E are inconsistent with the final planning rule and any of them can be incorporated into plan direction where they are determined to be applicable and effective for those units. However, requiring incorporation of all elements of Alternative E does not provide enough flexibility for effective and efficient resource management on all units of the NFS. For these reasons Alternative E was not selected as the final rule.

The Environmentally Preferred Alternative

Under the Council on Environmental Quality's (CEQ) NEPA regulation, the Department is required to identify the environmentally preferred alternative (40 CFR 1505.2(b)). This is interpreted to mean the alternative that will promote the national environmental policy as expressed in NEPA's section 101 and that would cause the least damage to the biological and physical components of the environment. The environmentally preferred alternative best protects, preserves, and enhances historic, cultural, and natural resources (Council on Environmental Quality, Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations (46 FR 18026, 18028 (March 23, 1981)).

The two alternatives that best meet these criteria are Alternative D (if it could be fully implemented) and Modified Alternative A. Alternative D provides the highest level of resource protection, particularly for water and riparian resources. Some requirements of this alternative would be difficult to implement across the entire NFS, add increased cost and complexity to the planning process for little benefit, and may not always represent the best approach for the resource. The additional funds spent on the planning process would not be available for other management activities including restoration and habitat improvement.

Modified Alternative A also provides high levels of resource protection and can be effectively implemented across all units. It does not preclude incorporation of elements of Alternative D into plans where they are most suited to meet resource conditions.

The approval of a planning rule to guide development, revision, and amendment of land management plans is a broad policy decision. Accordingly, impacts described in the PEIS reflect issues concerning effects over a broad geographic and time horizon. The depth and detail of impact analysis is necessarily broad and general because a planning rule is two steps removed from site-specific projects and activities. Quantitative, site-specific effects can only be predicted with any certainty when site-specific actions are proposed.

Decision and Rationale

Decision

Modified Alternative A, with clarifications, is selected as the final planning rule. A few clarifications were made to better represent the Department's intent, and do not substantively change Modified Alternative A. They include:

(1) Changes made to § 219.7(e)(1)(iv) and § 219.15(d)(3) to clarify that compliance with both standards and guidelines is mandatory, with standards requiring strict adherence to their terms, while guidelines allow for flexibility so long as the purpose for the guideline is achieved.

(2) Changes made to § 219.9(b)(1) to clarify that the responsible official must determine whether the plan components of paragraph (a) provide the necessary ecological conditions, or whether additional, species-specific plan components must be included in the plan.

(3) Changes made to the definition of designated areas in § 219.19 to clarify that the examples of designated areas included in Modified Alternative A were not intended to be exclusive.

(4) Changes throughout Subpart B to clarify that organizations, States and Tribes are among the entities that may object, pursuant to the other requirements in Subpart B.

This decision is based on the *Programmatic Environmental Impact Statement—National Forest System Land Management Planning,* USDA Forest Service, 2011, and its supporting record. This decision is not subject to Forest Service appeal regulations.

Nearly 300,000 comments were received on the DEIS and the proposed rule. The Agency also consulted with Indian Tribes, the US Fish and Wildlife Service and the National Marine Fisheries Service. The Department has reviewed and considered these comments, the results of the consultations, and worked with Agency managers in concluding that the proposed rule would be improved by clarifying the proposed wording and incorporating the changes reflected in Modified Alternative A into the final rule.

This decision does not authorize any projects or activities. The planning rule describes the process the Forest Service will use for development, amendment, and revision of land management plans for national forests and grasslands, and includes requirements for the structure and content of those plans. Any commitment of resources takes place only after (1) a land management plan is approved under the provisions of the final rule (including the completion of the appropriate NEPA process), and (2) the Forest Service proposes projects or activities, analyzes their effects in the appropriate NEPA process, determines consistency with the applicable land management plan, and authorizes the final projects or activities.

Sometimes projects or activities may be authorized at the same time and in the same decision document when approving a plan, plan amendment, or plan revision. One example might be opening or closing trails to the use of

off-highway vehicles. In these cases, the part of the decision associated with the project or activity would represent a commitment of resources.

Rationale for the Decision

The following paragraphs outline the rationale for the decision, including how Modified Alternative A meets the purpose and need and addresses the significant issues described in the final PEIS.

The Department determined Modified Alternative A best meets the purpose and need for a new planning rule. Modified Alternative A provides a process for planning that is adaptive and science-based, engages the public, and is designed to be efficient, effective, and within the Agency's ability to implement. It is designed to ensure that plans provide for the sustainability of ecosystems and resources; meet the need for forest restoration and conservation, watershed protection, and species diversity and conservation; and assist the Agency in providing a sustainable flow of benefits, services, and uses of NFS lands that contribute to the economic and social sustainability of communities.

The paragraphs below describe how Modified Alternative A meets the purpose and need for a new planning rule. Many of the requirements described for each element can be found in one or more of the alternatives analyzed in the PEIS. However, the Department concludes that the combination of requirements provided in Modified Alternative A provide the best approach for developing, amending, and revising plans. Modified Alternative A is clearer than Alternative A, better reflects the Department's intent as described in the preamble for the proposed rule, and reflects public comments and suggestions for improving the proposed rule. Unlike Alternative B, it meets the purpose and need for a new planning rule. It is also more implementable and less costly than Alternatives D and E, and allows greater flexibility to develop plans that best meet the ecological, social, and economic needs of units across the very diverse National Forest System. The Department concludes that the combination of provisions in Modified Alternative A best meets the purpose and need for a new planning rule and provides assurance that the Department's objectives will be met.

For those reasons, Modified Alternative A provides the best balance among the alternatives to meet the purpose and need for a new planning rule.

Response to Purpose and Need

All of the alternatives analyzed in detail, with the exception of Alternative B, meet the purpose and need to varying degrees. No single alternative can maximize all of the elements of the purpose and need. The Department finds that Modified Alternative A provides the best planning framework for meeting the various elements of the purpose and need by creating a rule that:

1. Emphasizes restoration of natural resources to make NFS lands more resilient to climate change, protect water resources, and improve forest health. The Department concludes that Modified Alternative A will result in plans that are adaptive and therefore more likely to remain relevant and implementable, including by providing an adaptive framework that will help responsible officials to respond to changing conditions and new information.

2. Contributes to ecological, social, and economic sustainability by ensuring that all plans will be responsive to issues such as the challenges of climate change; the need for forest restoration and conservation, watershed protection, and species conservation; and the sustainable use of public lands to support vibrant communities.

3. Is consistent with NFMA and MUSYA. The Department intends that the requirements of Modified Alternative A will be integrated into the development or revision of a plan in a manner that provides for the long-term ecological sustainability of the plan area while sustaining ecosystem services and providing for multiple uses.

4. Is consistent with Federal policy on the use of scientific information and the Agency's expertise and experience gained in more than 30 years of land management planning. Responsible officials will use the best available scientific information to inform the plan components and the monitoring program. The Department concludes that Modified Alternative A requires a planning process that is science-based and additionally recognizes the value of local knowledge, the Agency experience, knowledge, and information of other land managers, and indigenous knowledge.

5. Provides for a transparent, collaborative process that allows effective public participation. Modified Alternative A includes requirements to engage the public, Tribes, other government agencies, and groups and communities that have been at times under-represented in planning, such as youth and minorities, throughout the planning process. The Department concludes that the collaborative approach required by Modified Alternative A will result in improved relationships and plans that better meet the needs of diverse communities, which in turn will translate into more successful projects and activities developed under the plans.

6. Ensures planning takes place in the context of the larger landscape by taking an "all-lands approach." Modified Alternative A uses an "all-lands approach" to consider conditions beyond the plan area and how they might influences resources within the plan area as well as how actions on the NFS might affect resources and communities outside of the plan area. It also requires that responsible officials coordinate with entities with equivalent and related planning efforts.

7. Is within the Agency's capability to implement on all NFS units. It is clear and provides an efficient framework for planning, and is able to be implemented within the financial capacity of the Agency.

The Department concludes that Modified Alternative A provides an appropriate balance between the flexibility needed to address issues unique to the plan area and the need for consistent requirements and a consistent approach. Modified Alternative A reduces planning costs and the time needed for a plan revision from current levels.

Response to the Issue of Ecosystem Restoration

As many respondents correctly noted, not all NFS lands are in need of restoration and, in fact, NFS lands often provide among the highest quality habitat and the cleanest water of all lands in the country. The final rule provides for the maintenance of those lands. There is also widespread consensus that some NFS lands are degraded or are at risk of becoming degraded. From large scale pine beetle outbreaks in the Intermountain West to watersheds across NFS lands with poorly sited or maintained roads that cause sedimentation or block the movement of fish and aquatic organisms, there are many restoration needs on NFS lands. Modified Alternative A addresses the need for ecosystem maintenance and restoration.

Modified Alternative A incorporates the concept of ecological integrity. This concept is defined in the scientific literature as a means of evaluating ecological conditions in terms of their sustainability. The concept of ecological integrity is also used by the U.S. Department of the Interior's National

Park Service and Bureau of Land Management. Aligning approaches across the broader landscape will facilitate an all-lands approach to ecological sustainability.

Under Modified Alternative A, information relevant for ecosystem maintenance and restoration will be identified and evaluated during the assessment phase. Plan components are required for the maintenance and restoration of the ecological integrity of riparian areas and air, soil, and water resources. Responsible officials will consider opportunities to restore fire adapted ecosystems and for landscape scale restoration. The monitoring program will track ecological and watershed conditions and measure progress towards meeting desired conditions and objectives.

Modified Alternative A captures many of the concepts of "best practices" in restoration that are already occurring on NFS lands. Examples of such best practice efforts include the Collaborative Forest Landscape Restoration Program established under section 4003(a) of Title IV of the Omnibus Public Land Management Act of 2009, (*http://www.fs.fed.us/restoration/CFLR/index.shtml*), which promotes healthier, safer, and more productive public lands through partnership efforts, and the Four Forest Restoration Initiative to accomplish landscape scale restoration of ponderosa pine ecosystems in the Southwest. These restoration efforts bring people together to work across ownerships, restore ecosystems, increase organizational capacity, and in the process create jobs and economic opportunities that contribute to sustainable economies. Modified Alternative A provides a platform for working with the public and other land managers to identify restoration needs across the landscape and manage NFS lands to support meeting shared restoration objectives.

Response to the Issue of Watershed Protection

Watersheds and water resources on NFS lands are important for many reasons: For example, they are the source of drinking water for one in five Americans, provide important species habitat for terrestrial and aquatic species, and support recreation opportunities in the plan area.

Modified Alternative A includes a strong set of requirements associated with maintaining and restoring watersheds and aquatic ecosystems, water resources, and riparian areas in the plan area. It incorporates the protection or mitigation requirements of the 1982 rule, but goes beyond the 1982 rule in requiring a proactive approach for maintaining or restoring terrestrial and aquatic ecosystems and watersheds in the plan area.

Under Modified Alternative A, information relevant to watersheds, aquatic ecosystems, and water resources will be identified and evaluated during the assessment phase. Plans will be required to identify priority watersheds for maintenance or restoration. Plan components are required for the maintenance and restoration of the ecological integrity of aquatic ecosystems and watersheds, water quality, and water resources in the plan area, including lakes, streams, wetlands, and sources of drinking water.

Plan components are also required for the maintenance and restoration of the ecological integrity of riparian areas, including structure, function, composition, and connectivity; taking into account a number of factors; and plan components must establish widths for riparian management zones. Because riparian resources across NFS units are very diverse, Modified Alternative A retains the 1982 rule requirements to give special attention to land and vegetation within approximately 100 feet of all perennial streams and lakes and prevent management practices that have serious or adverse impacts, but does not require a single national width for riparian management zones. Riparian areas may be forested or open, they are connected with all types of streams, lakes and wetlands, and they vary widely in existing condition and types of use. Modified Alternative A allows for the requirements to be tailored to specific conditions on the plan area. The set of requirements included in Modified Alternative A for riparian areas is more implementable and less costly than the requirements in Alternative D, and will lead to a more effective and appropriate set of plan components across a diverse system.

Under Modified Alternative A, responsible officials must ensure that projects and activities in riparian areas are consistent with plan requirements for maintaining or restoring riparian areas, do not seriously or adversely affect water resources, are suitable uses, and are compatible with desired conditions for those lands. The consistency requirement places the decision about what types of projects or activities may or may not be allowed and what management direction will guide these activities at the plan level. The Department concludes that this is the appropriate level at which to make these decisions.

NFS lands provide some of the highest quality water in the country and are important sources of drinking water, but there are streams that do not meet State water quality standards. Modified Alternative A requires that the Chief of the Forest Service establish requirements for best management practices for water quality, and that plans ensure implementation of those practices.

The Department concludes that Modified Alternative A appropriately elevates the emphasis on the conservation of water and riparian resources, can be implemented on all NFS units, and is soundly supported by recent advances in conservation biology and ecology.

Response to the Issue of Diversity of Plant and Animal Communities

Perhaps no other aspect of the proposed planning rule has sparked as much interest or generated as much debate as the requirement to provide for plant and animal diversity. In particular, there is disagreement between those who believe that without strong, specific requirements in the rule for maintaining species diversity and viability, the persistence of many species will be at increased risk, and those who believe that putting specific requirements in the rule will result in endless litigation that will keep the Agency from moving forward with planning and with projects and activities.

The Department's intent is to provide for the diversity of plant and animal communities, and keep common native species common, contribute to the recovery of threatened and endangered species, conserve proposed and candidate species, and maintain species of conservation concern within the plan area, within Agency authority and the inherent capability of the land.

Modified Alternative A requires that future plans be based on a complementary ecosystem and species-specific approach to provide for the diversity of plant and animal communities in the plan area and the long-term persistence of native species in the plan area. This approach is often referred to as the coarse-filter/fine-filter approach.

The ecosystem integrity and diversity requirements in Modified Alternative A are meant to provide a coarse-filter designed to maintain biological diversity. By working toward diverse, connected ecosystems with ecological integrity, the Agency expects that over time, management will create ecological conditions which support the abundance, distribution, and long-term

persistence of most native species within a plan area, as well as provide for diversity of plant and animal communities. The fine-filter provisions are intended to provide a safety net for those species whose specific habitat needs or other influences on their life requirements may not be fully met under the coarse-filter provisions.

The coarse-filter/fine-filter approach is a well-developed concept in the scientific literature and has broad support from the scientific community and many stakeholders. It incorporates the considerable advances of the past three decades in understanding of biological and conservation science. The coarse-filter/fine-filter approach is already incorporated into many recently revised plans and is yielding positive results. For example, restoration of longleaf pine in the South is resulting in increases in red-cockaded woodpecker populations, and restoration of watersheds and instream habitat in the Pacific Northwest is yielding benefits for salmon.

The provisions in Modified Alternative A recognize the importance of maintaining biological diversity of native species on each national forest and grassland, and the compositional, structural, and functional components that comprise the biological diversity on each NFS unit, and recognize the importance of native species and their contributions to maintaining the ecological integrity of ecosystems.

Considering habitat needs for non-vertebrates is not new to the Forest Service. Non-vertebrate species can be federally recognized as threatened or endangered. In addition, the Agency has developed and maintained a list of regional forester sensitive species (RFSS) for over two decades. An RFSS list can include any native plant or animal species. RFSS are those plant and animal species identified by a regional forester for which population viability is a concern, as evidenced by: significant current or predicted downward trends in population numbers or density or significant current or predicted downward trends in habitat capability that would reduce a species' existing distribution. RFSS are thus similar to species of conservation concern. The conservation and management of many RFSS has been a part of many land management plans and projects and activities for decades.

The Department intends to provide for the persistence of all native species by the use of the coarse-filter/fine-filter approach, within Forest Service authority and the inherent capability of the plan area. Modified Alternative A provides a three-fold treatment of all native species.

First, Modified Alternative A requires coarse-filter plan components for the maintenance and restoration of the ecological integrity and diversity of ecosystems in the plan area. Plan components will support the long-term persistence of most native species in the plan area, including providing for species that are common or secure.

Second, species that are federally recognized species under ESA (threatened, endangered, proposed, and candidate species) may not have viable populations on NFS lands and whose recovery, in most cases, cannot be achieved on a single NFS plan area. Modified Alternative A requires the responsible official to develop coarse-filter plan components, and fine-filter plan components where necessary, to contribute to the recovery of listed species and conserve proposed and candidate species.

Third, Modified Alternative A requires the responsible official to develop coarse-filter plan components, and fine-filter plan components where necessary, to provide the desired ecological conditions necessary to maintain viable populations of species of conservation concern within the plan area, or to contribute to maintaining a viable population of a species of conservation concern across its range where it is not within the Agency's authority or is beyond the inherent capability of the plan area to provide the ecological conditions to maintain a viable population of that species within the plan area.

Species of conservation concern are those plant and animal species whose long-term persistence within the plan area is of known conservation concern. The rule requires that species of conservation concern must be "known to occur in the plan area" and that the regional forester identify the species of conservation concern for which "the best available scientific information indicates substantial concern about the species' capability to persist over the long term in the plan area."

The Department has considered the concerns raised by many that the requirement for maintaining viable populations of species of conservation concern on the plan area is an impossible task and that attempting to meet this requirement will come at the cost of all other management of the NFS lands. The Department concludes that Modified Alternative A provides a more holistic, consistent, realistic, and effective approach to maintaining native fish, wildlife, and plant species on national forests and grasslands than provided under the 1982 rule, while meeting restoration goals and the mandate of multiple use.

Modified Alternative A recognizes that there are limits to the Agency's authority and the inherent capability of the land, whereas the 1982 rule required management prescriptions to "[p]rovide for adequate fish and wildlife habitat to maintain viable populations of [all] existing native vertebrate species," (See 1982 rule at § 219.27 (a)(6)) regardless of whether there are circumstances outside of the authority or the control of the Agency. Examples of circumstances that may be outside of the Agency's authority or the inherent capability of the plan area are provided above in the rationale for non-selection of Alternative B.

The Department concludes the management emphasis on species of conservation concern is more focused than the viability provisions under the 1982 rule, which included all vertebrate species whether there was concern about their persistence in the plan area or not. Since these species may be wide ranging or may occur on multiple units, the regional forester, in coordination with the responsible official, will identify species of conservation concern. Requiring that the regional forester identify species of conservation concern will increase consistency across units and build efficiency into the Agency's collective efforts to maintain the diversity of plant and animal communities.

The Department also considered the challenges the Forest Service has faced in monitoring management indicator species (MIS) under the 1982 rule. MIS monitoring has been the subject of much of the legal debate around the species provisions of the 1982 rule. Modified Alternative A does not include requirements to designate MIS or monitor their population trends. The concept of MIS as a surrogate for the status of other species is not supported by current science, and population trends are difficult and sometimes impossible to determine within the lifespan of a plan.

In the final rule, MIS monitoring has been replaced with monitoring of focal species. The concept of focal species is well supported in the scientific literature and community. Focal species are not surrogates for the status of other species. Focal species monitoring provides information regarding the effectiveness of the plan in providing the ecological conditions necessary to maintain the diversity of plant and animal communities and the persistence of native species in the plan area. Modified Alternative A does not require

or prohibit monitoring of population trends of focal species. Instead, it allows the use of any existing or emerging approaches for monitoring the status of focal species that are supported by current science. Monitoring methods for evaluating the status of focal species may include measures of abundance, distribution, reproduction, presence/absence, area occupied, survival rates, or others.

The Department expects that monitoring key ecosystem and watershed conditions along with monitoring the status of a set of well-chosen focal species will provide timely information regarding the effectiveness of plan components related to plant and animal diversity.

The requirements in Modified Alternative A regarding sustainability and diversity of plant and animal communities are part of the planning framework cycle that requires public participation, assessments, and monitoring. Additionally, provisions in these sections require the responsible official to coordinate with other land owners. These requirements support cooperation and an all-lands approach to ecosystem and species diversity and conservation.

Under plans developed under Modified Alternative A, the Department expects NFS lands to more consistently provide the ecological conditions necessary to maintain the diversity of plant and animal communities and the persistence of native species. Over time, the Department expects habitat quantity to increase and habitat quality to improve for most native species across the NFS including aquatic and riparian species. The Department also expects ecological conditions for many federally listed species, species proposed, and candidates for listing and species of conservation concern to improve within and among plan areas because Modified Alternative A gives emphasis to maintaining and restoring ecological conditions needed by these species. The final rule provides for collaborative approaches to addressing the range-wide concerns of species whose range and long term viability is associated with lands beyond the plan area.

The Department concludes that the combination of requirements in Modified Alternative A reflects a strong, implementable approach to providing for the diversity of plant and animal communities and the persistence of native species in the plan area, and is supported by the scientific literature and community. This approach meets the requirements of NFMA and MUSYA, and provides a holistic, consistent, realistic, and effective approach to providing for diversity of plant and animal communities on national forests and grasslands, while meeting restoration goals and the mandate of multiple use and sustained yield.

Response to the Issue of Climate Change

Consideration of changing conditions including climate in planning is not new to the Forest Service. The Climate Change Resource Center has been developed as a reference for Forest Service resource managers and decision makers who need information and tools to address climate change in planning and project implementation on NFS lands. For more than 20 years, Forest Service scientists have been studying and assessing climate change effects on forests and rangelands. Forest Service Research and Development provides long term research, scientific information, and tools that can be used by managers and policymakers to address climate change impacts to forests and rangelands. Climate change-related activities are carried out within research stations covering the whole country. In 2009, the Agency issued guidance for climate change considerations to provide the Agency with the support needed to incorporate climate change into land management planning and project-level NEPA documentation. Recent plan revisions include consideration of climate change.

Modified Alternative A incorporates a strategic framework for adaptive management: assess conditions on the ground using readily available information, build plan components recognizing that conditions may be changing, and monitor to determine if there are measurable changes related to climate change and other stressors on the plan area.

Under Modified Alternative A, responsible officials will identify and evaluate information relevant to understanding ecological conditions and trends and to forming a baseline assessment of carbon stocks. Plans will include plan components to maintain or restore ecological integrity, so that ecosystems can resist change, are resilient under changing conditions, and are able to recover from disturbance. Modified Alternative A also requires monitoring measurable changes on the plan area related to climate change and other stressors that may be affecting the plan area. Taken together, the planning framework and these requirements will ensure that information related to climate change will be addressed in a consistent and strategic fashion.

Modified Alternative A is consistent with and complements the Agency's climate change National Roadmap and Performance Scorecard, the Watershed Condition Framework and ecological restoration and sustainability policies. The climate change roadmap directs national forests and grasslands to develop climate change vulnerability assessments and identifies monitoring strategies. Elements in the scorecard will help the Agency to determine whether assessments and monitoring are being developed in a way that will help inform decisionmaking at the unit level. The scorecard includes requirements that complement or are complemented by requirements in Modified Alternative A. The climate change roadmap and scorecard are available online at *http://www.fs.fed.us/climatechange/advisor/*.

The national watershed condition framework (WCF) approach uses an annual outcome-based performance system to measure progress toward improving watershed condition on NFS lands. The WCF improves the way the Forest Service approaches watershed restoration by targeting the implementation of integrated suites of activities in those watersheds that have been identified as priorities for restoration. A short description of the framework is discussed in Chapter 3 of the final PEIS under watershed protection and a Forest Service publication is available at *http://www.fs.fed.us/publications/watershed/Watershed_Condition_Framework.pdf*.

Modified Alternative A capitalizes on existing Agency work such as the baseline carbon assessments conducted under the Climate Change Scorecard, the assessment and monitoring conducted under the Watershed Condition Framework, and the monitoring of climate change indicators occurring in the Forest Inventory and Analysis program, by ensuring integration of these activities into the land management planning process.

In selecting Modified Alternative A, the Department considered the present capability of the Agency to address climate change in planning. The Department also considered existing Agency policy on climate change and the ways in which the different alternatives could be integrated effectively with those policies. The Department concludes that the requirements for addressing climate change in the final rule can be carried out on all NFS units.

Response to the Issue of Multiple Uses

Modified Alternative A embraces the multiple use mandate of the Multiple-Use Sustained-Yield Act and recognizes the importance of multiple uses in many

sections of the alternative. Recreation, timber, grazing, and other multiple uses provide jobs and income to local communities, help to maintain social cultures and long standing traditions, connect people to the land, and contribute to the quality of life for many Americans.

The Agency has reported that spending by recreation visitors in areas within 50 miles of national forests and grasslands amounts to nearly $13 billion each year. Those dollars sustain more than 224,000 full and part-time jobs. Recreation accounts for more than half of all job and income effects attributable to Forest Service programs. Harvest of timber and other forest products from NFS lands contributed to more than 44,000 full- and part-time jobs with labor income totaling more than $2 billion in 2009. Livestock grazing on NFS lands contributes to an estimated 3,695 jobs and labor income totaling $91.9 million per year.

Timber harvest on NFS lands has declined from over 12 billion board feet in 1985 to approximately 2 billion board feet in 2009. In 1985, there were over 8 million cattle, sheep, and other domestic animals grazing on NFS lands. In 2009, this number dropped to approximately 6 million. In contrast, recreation visits to NFS lands have increased over this same period. There are many factors that influence the levels of timber harvest, grazing, and recreation, as well as other individual multiple uses of the NFS. These factors include increasing population, changing cultural and social values, greater access to NFS lands, changing rural and global economies, NFS budgets, and competing resource concerns. It is difficult to predict at this programmatic level the extent to which a new planning rule is likely to affect specific multiple uses in the future. As a result, the Department considered how each of the alternatives in the PEIS provides a framework for supporting the continued delivery of ecosystem services and multiple uses from the NFS.

Modified Alternative A considers ecological, economic, and social sustainability as equal and interdependent factors. Modified Alternative A emphasizes restoration of ecosystems so that they are capable of sustaining multiple uses over time. Restoration activities will produce jobs and income; at the same time; restored, functioning ecosystems can support species diversity while allowing multiple uses to continue. Under Modified Alternative A, timber production and grazing will continue to provide jobs, income, and ways of life for many Americans. Modified Alternative A emphasizes the importance of the continued delivery of sustainable recreation. Providing high quality recreation opportunities and a range of access to NFS lands creates jobs and income and connects people to the land.

Under Modified Alternative A, plans must contribute to economic and social sustainability and must provide for ecosystem services and multiple uses in the plan area. Responsible officials will use an integrated resource management approach to provide for multiple uses and ecosystem services in the plan area, considering a full range of resources, uses, and benefits relevant to the unit, as well as stressors and other important factors. As part of the multiple use requirements, Modified Alternative A will require plan components for sustainable recreation, including recreation settings, opportunities, access, and scenic character. Modified Alternative A also includes requirements for plan components for timber management, consistent with the requirements of NFMA.

Information relevant to multiple uses and their contributions to local, regional, and national economies, along with information about the benefits (ecosystem services) people obtain from the plan area, will be identified and evaluated in the assessment phase.

Monitoring will track progress towards meeting desired conditions and objectives for recreation and other multiple uses. Broad and unit scale monitoring may provide information on resource and social concerns and conflicts before they result in insurmountable challenges. Most importantly, the Department concludes that the requirements in Modified Alternative A for encouraging public participation, working across boundaries, and engaging other Federal agencies, State, local, and Tribal governments, will help identify multiple uses in the plan area, resolve conflicts, and facilitate the forward movement of effective land management activities.

The Department concludes that Modified Alternative A meets the Agency's multiple-use and sustained-yield obligations under MUSYA and provides an effective framework for sustaining the flow of goods and services from NFS lands over time.

Response to the Issue of Efficiency and Effectiveness

Under Modified Alternative A, the Department expects that individual plan revisions will cost less money and consume less time than they do under the 1982 rule procedures. The 1982 rule procedures are considered the baseline for comparing changes in cost and time for plan revisions because, until a new planning rule is in place, the 1982 rule procedures are being used as permitted by the transition provision of the 2000 rule to develop, revise, and amend all plans.

According to the Agency's regulatory impact analysis and cost-benefit analysis under Modified Alternative A, the Agency estimates that land management planning will cost an estimated $97.7 million per year, which is $6.3 million per year less than it currently costs to conduct planning under the 1982 procedures. More significantly, under Modified Alternative A, the Agency estimates that plan revisions will take, on average, 3 to 4 years as compared to 5 to 7 years under Alternative B, and will cost, on average, $3 to $4 million as compared to $5 to $7 million. As a result of these savings and efficiencies, the Forest Service will be able to revise significantly more plans during the 15-year revision cycle, than under the current planning structure.

Beyond cost and time savings, there are important ancillary benefits to increasing the efficiency of the planning revision process. Under shorter time frames it will be easier for the public to remain engaged throughout the revision process. One of the common concerns expressed by members of the public is that there is a significant amount of turnover in key Agency staff during the long timeframes required for plan revision under the current planning process. This can cause disruption and confusion as established relationships are severed and time and effort is needed to develop new relationships.

The new rule's requirements for increased collaboration and monitoring will lead to higher costs than are projected under Alternative B, but are expected to increase the effectiveness and relevance of land management plans. Increased collaboration provides benefits throughout the planning process and well into implementation. Analysis time may be shortened, administrative objections and the time needed to resolve them may be reduced, and projects developed under the resulting plans may be better understood and supported. Monitoring is important for adaptive management, and can help the Agency to test assumptions, track changing conditions, and measure management effectiveness over time. However, the Agency has long recognized that monitoring efforts when viewed across the Agency as a whole have often lacked consistency and, at times, credibility. The

monitoring requirements of Modified Alternative A complement broader Agency efforts to increase the efficiency and effectiveness of its inventory, monitoring and assessment programs, and make better use of the money currently spent on monitoring.

While the cost of each requirement is included in the total cost estimate of Modified Alternative A, many of the requirements involve work that is already occurring and that will continue to occur regardless of whether this, or another alternative is selected as the final rule. Modified Alternative A was developed as part of an integrated Agency framework to manage the NFS lands more efficiently. Other initiatives and Agency priorities that will complement and support the implementation of the new land management planning process and address critical NFS resource issues include the Watershed Condition Framework, Climate Change Scorecard, landscape scale restoration, an all lands approach, and a new system for inventory, monitoring, and assessment work that addresses core resource information and data needs at all levels of the Agency.

Modified Alternative A is neither the least nor the most costly of the alternatives the Department considered. Modified Alternative A reduces the costs and time required for plan development, amendment, and revision. However, the Department does not believe that selecting the least costly alternative should be the overriding criterion. Planning is an important investment. The requirements in Modified Alternative A are designed to lead to more effective plans, to yield greater efficiencies over time by ensuring a consistent approach to planning, to build on existing information, to facilitate adaptive management, and to allow the use of amendments and administrative changes to keep plans current so that future revisions are less costly.

The Department recognizes that some of the definitions, concepts, and terms used in Modified Alternative A are new or broadly worded. This Alternative sets forth process and content requirements to guide the development, amendment, and revision of land management plans across very diverse national forests and grasslands and over a long period of time. By setting out substantive and procedural requirements, the rule establishes the decision space within which the planning process is to be carried out and within which plan content must fit. The Forest Service will develop directives (the Forest Service Manual and Handbook) that will provide additional guidance and more detailed interpretation to ensure consistent and effective implementation of the rule. These directives will be available for public review and comment before they are finalized. Plans developed, revised and amended under the rule will be consistent with the rule and the directives.

Response to the Issue of Transparency and Collaboration

Modified Alternative A supports a transparent and collaborative approach to planning. As described in the PEIS, best practices in public involvement and collaboration emphasize the importance of engaging a broad spectrum of participants. Participants might live close to a plan area or not. What matters is they care about that area for some reason, can contribute to an understanding of relevant issues, can help get planning or project work done, and can help increase organizational and community capacity. A plan revision or amendment process that offers a broad spectrum of participation opportunities is much more likely to produce a meaningful, shared understanding of the social, economic, or ecological factors of importance in the plan area. Forests and grasslands that already engage a broad spectrum of public interests early and often report that their proposed projects and plans more accurately incorporate public vision and interests. They further report that upfront public involvement builds more understanding of proposed actions, and that people typically respond more positively to these proposals.

Under Modified Alternative A, responsible official will be required to provide meaningful opportunities for public participation in each phase of the planning framework. Modified Alternative A includes requirements for outreach, Tribal consultation, and coordination with other planning efforts. Responsible officials will continue to engage State and local governments, Tribes, private landowners, other Federal agencies, and the public at large, but additionally will encourage participation by youth, low-income and minority populations, who have traditionally been underrepresented in the planning process. Having the forest or grassland supervisor as the responsible official provides greater opportunity for people to interact directly with the decision maker than under current rule procedures. Use of a pre-decisional review (objection) process is also consistent with a more collaborative approach.

Modified Alternative A allows flexibility at the local level to determine the most appropriate method and scale of the public involvement. Much of the literature on building effective collaboration discusses the need for flexibility to select public involvement methods appropriate for the unique needs of specific situations and participants.

Modified Alternative A is consistent with current practice on effective public engagement and incorporates approaches that have proven successful and implementable on NFS units.

The requirements for public participation, notification, and documentation required in Modified Alternative A support transparency in planning. This alternative's requirements to consider the accessibility of the process and of information, to use contemporary tools to engage the public and to post all notifications online further increase transparency.

Response to the Issue of Coordination and Cooperation Beyond NFS Boundaries

Ecological and social systems are not confined within NFS unit boundaries. Ecosystem services produced by national forests and grasslands affect and are affected by land management activities on adjacent private, State, local, and other Federal Government lands.

Under Modified Alternative A, the responsible official will consider the landscape-scale context for management and will look across boundaries throughout the assessment, plan development/revision, and monitoring phases of the planning process. The assessment phase will provide information about conditions and trends relevant to management of the plan area in the context of the broader landscape. Responsible officials will take an all-lands approach into account when developing plan components for ecological sustainability and multiple uses and ecosystem services. Plan and broader-scale monitoring, along with direction to engage the public and other land managers in each phase, will also support an all-lands approach. Responsible officials will leverage their resources and knowledge with those of other agencies to increase effectiveness and gain efficiency in planning and future implementation of their plans.

The PEIS includes several examples of landscape scale planning, projects, and assessments that are currently using an all-lands approach in planning, assessment and monitoring. They have resulted from an increased recognition

that NFS land management must be considered in the broader landscape and that only this kind of approach can address problems such as maintaining watershed conditions, conserving wide-ranging species, and providing for effective transportation and infrastructure on and off NFS lands. The Department concludes that Modified Alternative A incorporates these best practices and provides a framework for continuing and expanding them.

Compliance With the Endangered Species Act of 1973, as Amended

Beginning in September, 2010 and continuing through the development of the final rule and its accompanying final programmatic environmental impact statement (PEIS), representatives from the U.S. Fish and Wildlife Service (USFWS) and the National Oceanic and Atmospheric Administration (NOAA) Fisheries (the reviewing agencies) met regularly with members of the Forest Service to discuss Endangered Species Act of 1973 issues related to the final rule. During that time, the three agencies worked closely together to identify the relevant issues and appropriate level of analysis associated with this rule and the environmental analysis for it. They collaborated on a consultation process and on the biological assessment (BA). The Agency requested consultation under section 7(a)(1) and 7(a)(2) of the Endangered Species Act of 1973 with the reviewing agencies in July, 2011. Additionally, the Agency requested conferencing on the potential effects of the rule on all species that are proposed for Federal listing and currently occur on NFS lands, and those that are candidates for Federal listing that occur on or are suspected to occur on NFS lands. A summary of the consultation meetings between the Forest Service, NOAA Fisheries, and the USFWS can be found in Appendix E of the final PEIS.

NOAA Fisheries and USFWS have each prepared a biological opinion pursuant to section 7(a)(2) of the Endangered Species Act including a conservation review pursuant to section 7(a)(1) Act (16 U.S.C. 1536(a)(1) and (2)). Each agency issued a biological opinion that adoption of the final planning rule is not likely to jeopardize the continued existence of the endangered or threatened species under its jurisdiction and is not likely to destroy or adversely modify any of those species' critical habitat. Each agency's biological opinion also concluded that the planning rule would set forth a system for land use plans that would further the conservation purposes of the Endangered Species Act under section 7(a)(1).

Copies of the biological assessment, its addendum, and the biological opinions are in the project record and can be viewed online at: *http://www.fs.usda.gov/planningrule.*

Response to Comments

The following is a description of specific comments received on the proposed rule, responses to comments, and changes made in response to comments. Each comment received consideration in the development of the final rule. In addition, following the publication of the PEIS, the Department received comments on the PEIS and the preferred alternative. These comments were also considered by the Department in the development of the final rule, and any changes made in response to those comments are described below. A response to comments on the draft EIS and the proposed rule may be found in the response to comments appendix of the EIS located online (see **ADDRESSES**).

General Comments

The Department received the following comments not specifically tied to a particular section of the 2011 proposed rule.

General Comments on Rulemaking Effort

Comment: Use of public forums for rule development and meeting locations. A respondent was critical of the public forums, as the forum they attended was full of private sector representatives and not members of the public. Another respondent felt there were not enough public meetings held on the East Coast. A respondent felt after scoping, the proposed rule was developed "behind closed doors." The respondent felt the meetings on the proposed rule were not opportunities to discuss specific rule wording.

Response: The public engagement effort prior to development of the proposed rule was the most extensive, transparent and participatory process ever used to develop a proposed planning rule. The Department began by using the Notice of Intent (NOI) to solicit initial public input, rather than going out with an already developed proposal. This decision was made in recognition of the level of public interest in this rule-making effort, and in a desire to build a proposed rule based on public input. The Department received 26,000 comments on the NOI. Following the NOI, the Department hosted a science forum, 4 national roundtables, and 9 regional roundtables which reached 35 locations around the country, using an independent facilitator to run the roundtables and capture public feedback.

The purpose of the public forums before publication of the proposed rule was to openly and transparently discuss possible content of the proposed rule. Participants in the meetings were invited to suggest specific topics and specific wording during the sessions. Materials and summaries from the roundtables were posted online. Many roundtables used video teleconferencing or Webcasts to provide for participation by members of the public unable to attend in person. This use of technology also provided opportunities for the public to participate from their local Forest Service office. The Agency also hosted a blog site for people to engage in dialogue and provide feedback, as well as participate remotely in the national roundtables. More than 3,000 members of the public participated in these sessions and provided important feedback that the Agency used in developing the proposed rule.

After the proposed rule was published, the Agency hosted 28 regional public forums and one national public forum to answer questions and help the public understand what was in the proposed rule. These sessions were attended by more than 1,350 people and reached 72 satellite locations across the country. These forums were intended to help the public submit informed comments during the comment period for the proposed rule, but the Agency did not accept public comments directly at the forums because of the need to have a consistent way of accepting and recording comments.

After the public comment period closed, the Agency used the more than 300,000 comments received to inform development of this final rule.

Comment: Proposed rule commenting process. A respondent felt there was no convenient way for the everyday person to provide comments on the proposed rule.

Response: Multiple avenues for the public to submit comments on the proposed rule were provided, including submitting comments electronically via the respondent's choice of two Web sites, or submitting comments using mail or fax. Information on how to submit comments was posted on the Forest Service Web site, distributed at public meetings, and published in the **Federal Register** notice. Additionally, interested parties could sign up for a listserv that provided updates via email.

Comment: Lack of responses. A respondent felt the 26,000 comments received during the comment period for the notice of intent (NOI) to develop a

new planning rule meant the Department must undertake further efforts to ensure the public is sufficiently involved in the planning process and further ensure that actions taken as a result of the rule are supported and understood by the public.

Response: In addition to the 26,000 comments received in response to the NOI, the Department engaged more than 3,000 people around the country in public forums to receive input between the NOI and the proposed rule, and received more than 300,000 public comments during the 90-day comment period for the proposed rule. After publication of the final rule, public participation in planning at the unit level is mandated by § 219.4, which requires the responsible official to offer meaningful opportunities for public involvement and participation early and throughout the development of a land management plan or plan revision. The Agency is also exploring ways to engage more broadly with the public to implement this final rule.

Comment: Cooperating status for rulemaking. Some respondents expressed concern that their requests for cooperating agency status were not granted by the Department.

Response: The National Environmental Policy Act (NEPA) allows for cooperating agency status for States, local governments, and Tribes with jurisdiction or special expertise for the development of an environmental document. Several States or local governments requested cooperating agency status. However, a national rule requires a broader look beyond an individual State's or local government's expertise. The Agency also took a unique and unprecedented collaborative and open approach in reaching out to the public, governments, and Tribal entities in developing the rule. Therefore, requests for cooperating agency status during development of the planning rule were not granted. The Department recognizes the valuable role of local and State governments and Tribes in the planning process and provided multiple opportunities for their involvement throughout the country during the collaboration efforts for the planning rule, in addition to the formal public comment periods.

Comment: Oral comments. Several respondents felt oral comments during the public forums on the proposed rule should have been allowed.

Response: When applicable, the Administrative Procedures Act directs that agencies provide an opportunity for written comment, but allows agencies the discretion whether or not to allow oral presentation of data or views. The Forest Service hosted open public forums in Washington, DC, and across the country to answer questions about the proposed rule during the public comment period. The Forest Service held these forums to help the public understand the content of the proposed rule. The Forest Service did not, however, accept written formal public comments at the forums or provide an opportunity to record oral comments, due to the anticipated volume of public comments, to ensure proper documentation and consideration of all comments, and in the interest of efficiency and accuracy in accepting and reviewing comments. All comments on the proposed rule and DEIS had to be submitted in writing during the 90-day comment period by postal system, fax, or one of two Web sites.

Comment: Personal comments. A respondent expressed concern that their scoping comments were not incorporated into the proposed rule.

Response: No rule can satisfy the entire spectrum of opinion. The final rule seeks to balance different, and often competing, public needs and perspectives on planning into a process that is practical, workable, based on science, and reflective of overall public and Agency values and input.

Comment: Incorrect or missing address for submission of comments, phone contact, and Web site utility. Some respondents expressed confusion on why the Department did not provide an email address for comments to be sent to. Others expressed frustration that the contact phone number was published incorrectly in the DEIS, and expressed a desire to submit comments or ask questions by phone. Some wanted a better sitemap on the Forest Service planning Web site to help navigation through the site.

Response: Instead of an email address, the Department provided the addresses of two Web sites the public could choose from to submit comments, in addition to mail or fax options. Because of the volume of anticipated comments, the Department concluded that comments submitted via a Web site would be more efficient to manage than an electronic mail in-box, and would reduce costs and the risk of human error. In addition, comments are more efficiently and rapidly placed in the record and made available for public inspection when submitted via a Web site rather than email.

After being made aware of the incorrect phone number published in the DEIS, the Department corrected the contact information immediately. The Administrative Procedure Act requires agencies to "give interested persons an opportunity to participate in the rulemaking through submission of written data, views, or arguments with or without opportunity for oral presentation" (5 U.S.C. 553(c)). Due to the anticipated volume of public comments, and in the interest of efficiency and accuracy in accepting and reviewing comments, the Department did not accept comments over the telephone. It is not standard practice to accept telephone comments. Opportunities to provide comment were amply provided through the respondent's choice of two Web sites, mail or fax.

The planning rule Web site does contain a site map link on the left-hand menu on the main page. The Department appreciates feedback on our Web design and seeks to continuously improve our Web presence.

Comment: Verification comments received. Some respondents wanted to verify that their comments on the planning rule were received.

Response: Respondents are able to verify that their comments were received by reviewing the public reading room for the planning rule at *http://contentanalysisgroup.com/fsrd/*. To ensure transparency, comments submitted during the comment period were posted to the reading room for public review.

Comment: List serv. A respondent felt the Department should use a listserv to keep the public apprised of the status of the planning rule.

Response: A planning rule listserv was announced in June 2010, and has been used since then to communicate with the public. Members of the public may request to be added to the planning rule listserv on the planning rule Web site, or directly at *http://www.fs.fed.us/news/pr-listserv-subscribe.html*.

Comment: Requests for extension of the comment period. Some respondents requested an extension of the comment period because some members of the public were not able to participate in Agency meetings addressing the proposed rule. Other respondents requested an extension of the comment deadline because of the late release of a scientific review. Some respondents said that the public did not have enough time to comment on the science review before the comment period closed.

Response: The Department went through extraordinary lengths to facilitate the ability of the public to understand and comment on the proposed rule and proposed environmental impact statement. In fact, the Administration identified this rule as a flagship for open government

within the U.S. Department of Agriculture. The Department published in the **Federal Register** a notice of intent to propose a new rule and prepare its accompanying environmental impact statement on December 18, 2009, and took public comment on that notice for 60 days. The proposed rule was informed by approximately 26,000 comments to the notice of intent, a science forum, regional and national roundtables held in 35 locations with over 3,000 people in attendance, national and regional Tribal roundtables, 16 Tribal consultation meetings, Forest Service employee feedback, and over 300 comments posted to the planning rule blog. Throughout that process, the Agency shared a clear timeline with the public, including our intent to publish the final rule by the end of 2011.

The Department considered all the public input, science, and the Agency's expertise to develop the proposed rule and draft environmental impact statement (DEIS). The proposed rule and notice of availability for the DEIS were published in the **Federal Register** and included a 90-day comment period ending on May 16, 2011. A 90-day comment period was used because of the importance of the proposed planning rule. This was 30 days more than the Agency's customary comment period for rulemaking and is 45 days more than the review and comment period for draft environmental impact statements required by National Environmental Policy Act regulations.

The Department reached well beyond its normal practices to provide the public with information to assist in the public comment phase of this rulemaking. During March and April, 2011, after the notices were published in the **Federal Register**, the Forest Service hosted 29 national and regional public forums to provide stakeholders with information about the proposed rule and respond to questions. The forums were attended by almost 1,350 members of the public and reached 74 locations across the country through video and teleconferencing. The National Forum was held within 3 weeks of the opening of the comment period and a video of the forum and forum materials were posted on the planning rule Web site. The regional forums were also held early in the comment period. While the forums were designed to assist the public in understanding the proposed rule and foster informed comments, it was not necessary for any member of the public to attend a forum to develop and submit comments. The Forest Service ensured that the planning rule Web site contained background information on the proposed rule as well as summaries of the various collaboration and public involvement activities held during the preparation of the proposed rule. Also, the DEIS was posted on that Web site, as published in the **Federal Register** notification. In order to proactively facilitate commenting, the Forest Service provided multiple options for members of the public to submit comments: two Web sites, by hard copy mail, and by facsimile.

In addition, the Department contracted with a neutral third party to arrange an independent review of the DEIS by respected and well known scientists outside of the Forest Service to ensure that the science behind the proposed rule and environmental analysis is current, relevant, accurate, and appropriately applied. In order to ensure the integrity and independence of the review process, the identity of the reviewers and the content of their individual analysis were kept confidential by the third party, until the review was completed. In keeping with our open and transparent process, the Agency committed to make the reviews in their entirety public and did so within 3 business days of receiving them. The Agency posted the reviews on the Internet on April 26, 2011. The summary of the reviews and each independent review can be found on the Internet at *http://www.fs.usda.gov/planningrule.* Neither requesting the review nor sharing the result of the review was legally required. The Forest Service considered the science reviews, along with public comments, in preparing the final programmatic environmental impact statement (PEIS) and final rule.

The Department believes the public had sufficient time to review these materials and consider them when commenting on the proposed planning rule. The Department decided not to extend the 90-day comment period because extra time had been provided for comments beyond the customary practices and an unprecedented amount of information and access to the Agency employees to assist the public in understanding that information was provided to the public via Web site and public meetings.

Comment: External science review and Federal Advisory Committee Act. Some respondents were concerned that the external science review of the DEIS violated the Federal Advisory Committee Act (FACA) because they believed the Agency set up an advisory committee but did not follow the FACA requirements. Some respondents were concerned that the Agency did not follow the National Forest Management Act (NFMA) requirements in setting up a committee of scientists.

Response: The external science review of the DEIS did not violate FACA. FACA applies when a Federal agency establishes, controls, or manages a group that provides the Agency with consensus advice or recommendations. The external science review of the DEIS was conducted by seven non-Federal scientists, each of whom separately conducted an independent evaluation of whether appropriate scientific information, content, and rigor had been considered, analyzed, and synthesized in the DEIS. These scientists did not operate as a group; they were not established, controlled or managed as a group by the Agency; and they did not provide the Agency with consensus advice or recommendations. Accordingly, the external science review was not subject to FACA's requirements.

A committee of scientists was not required for this rulemaking effort under the NFMA: a committee of scientists was required only for the 1979 planning rule, and that committee terminated upon promulgation of that regulation. The NFMA states that the Secretary may, from time to time, appoint similar committees when considering revisions of the regulations, but the Secretary need not do so (16 U.S.C. 1604(h)(1)).

Comment: External science review and public comment. Some respondents were concerned that science review meetings of the external reviewers were not open to the public, and that the documents considered and produced were not available to the public. Some respondents were concerned that the Agency did not make the reviews public when the proposed rule was published for comment on February 14, 2011.

Response: There were no "science review" meetings held by the external reviewers. The Agency did not provide the external reviewers with any documents that were not available to the public. Neither the public nor the Department knew the identities of the reviewers, nor was there interaction between Department personnel and the reviewers during the review phase. It was only after the reviews were completed, during the public comment phase, that the Department learned the identities of the reviewers and the substance of their reviews. Within 3 business days of the Department's receipt of that information, each of the reviews (unedited), the contractor's summary of the reviews, and the identities of the reviewers were made public. The reviews were not available in February because the reviewers

received the DEIS for review at the same time as the rest of the public.

Comment: External science review and the rule. Some respondents were concerned that the scientists reviewed the rule and not the DEIS, as appeared evident from their reviews.

Response: The basic charge to the science reviewers was to evaluate how well the proposed planning rule's draft environmental impact statement (DEIS) considered the best available science. The contractor gave each science reviewer three key questions to address, regarding scientific caliber, treatment of uncertainty, and comprehensiveness of the DEIS. The reviewers were not asked to review the proposed planning rule or to comment on the alternatives. However, the text of the proposed planning rule and alternatives was included in the appendices of the DEIS that was posted online and made available to the public as well as the science reviewers. Some of the reviewers chose to provide feedback on the proposed rule and alternatives, although they were not asked to comment on those parts.

Comment: External science reviewers. Some respondents were concerned that the background of the reviewers did not include expertise that they felt was important to include, including mining, timber, or recreation. Some suggested that the reviewers were biased in their reviews.

Response: The Department contracted with RESOLVE to administer the science reviews to ensure the independence of the reviews. RESOLVE is a non-partisan organization that serves as a neutral, third-party in policy decisionmaking. One of RESOLVE's specialties is helping to incorporate technical and scientific expertise into policy decisions. The Agency provided the contractor with a draft of the DEIS and required it to select the reviewers and provide their responses to the Agency.

Comment: External science review and CEQ documents. Some respondents commented that the CEQ report from 1982 should not be used because it is too old. Also, some respondents suggested that other references used in the DEIS were too old to use.

Response: The references to which the comment referred were the "Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations," which was published in the **Federal Register** in 1981 (46 FR 18026 (March 23, 1981)) and the April 30, 1981 memorandum from the Executive Office of the President on scoping. Both are current and still relevant; see the CEQ Web site on NEPA guidance at *http://ceq.hss.doe.gov/nepa/regs/guidance.html.* Furthermore, scientific literature from decades ago may still be relevant and even considered the best science that is available on some topics. Some classic literature from well known scientists still is used frequently (for example, Pickett et al. 1978) and was used in the DEIS.

Comment: Some respondents commented that a concerted effort be made to address the issues raised by the science reviewers.

Response: The planning rule team considered and responded to the comments made by the science reviewers, along with other comments submitted by the public. The issues raised in the reviews informed the final PEIS, along with the other feedback received during the public comment period.

Comment: Some respondents were concerned that only the Science Review summary was posted online.

Response: The Science Review report included a summary of the science review and the full and unedited reviews of each of the science reviewers. The report was prepared by RESOLVE and was posted on the Forest Service Web site without any changes or omissions.

General Proposed Rule Comments

Comment: Degree of compliance or restriction. Some respondents said the rule should provide more discretion and flexibility to develop a forest plan by reducing the use of "shalls" and "musts." Other respondents felt phases "take into account" and "consider" should be removed and replaced with more prescriptive terminology as these terms left implementation largely to the discretion of the responsible official.

Response: The wording in the final rule was chosen to reflect the degree of structure the Department decided as appropriate for various aspects of the rule. The Department's goal in creating the final rule was to create an implementable framework for planning along with a structure and set of requirements for plan components and other plan content that would support the purpose of the final rule. In addition, the Department allows flexibility for plans to reflect the different unique circumstances across the National Forest System (NFS), including in response to best available scientific information, public input, and information about changing conditions at the unit level. The Department believes that the final rule strikes a good balance.

The Department recognizes that there may be significant differences in circumstances across the NFS that make specific national standards unworkable or not reflective of the best available scientific information for a given plan area. The final rule balances the need for national consistency with the need for local flexibility to reflect conditions and information on each unit. Additional direction will be included in the Forest Service Directives System, and a new requirement was added to § 219.2 that requires the Chief to establish a national oversight process for accountability and consistency of planning under this part.

Comment: Advocacy for a particular outcome or regulatory wording. Some respondents expressed general support for or opposition to the proposed rule. Among the items respondents supporting the proposed rule listed are the following: the use of larger ecological regions to provide context for forest, grassland and prairie units; cooperation between the Agency and adjacent governmental entities in planning and plan revision processes; public participation opportunities in the decision making process; the approach on ecological sustainability, watershed restoration and protection, and recognition of ecosystem services. Supportive respondents also were in favor of the emphasis on recreational uses and users; the streamlining and simplifying of the planning process the use of active management techniques; the continued emphasis on multiple use purposes including economic impacts and benefits; the use of best available science; and the appropriate use of regulations and management strategies to mitigate climate change effects. Those respondents expressing a general opposition to the proposed rule felt the way it was written and the requirements it contained were vague, complex, unrealistic, and needed clarification. They felt it would invite litigation; would not provide adequate protection for wildlife and resources; or would limit public access, use, rights, and participation. Some felt the proposed rule was inappropriate because they felt it allowed for continued timber, livestock, mining, and special interest groups' use; wasted tax dollars; would harm economic benefits for rural communities; failed to incorporate the multiple use mandate; failed to include sound science in planning and measurable tools for management; failed to incorporate and analyze Tribal interests and activities; allowed too much discretion to the responsible official; failed to give recreational uses

a greater priority; or failed to address cumulative effects these regulations would cause. Additionally, they expressed concerns over inclusion of climate change requirements. Some respondents expressed endorsement of comments submitted by other organizations or individuals, or referred to attachments submitted in support of their comments.

Response: The Department has reviewed all of these comments and enclosures, and appreciates the degree of public interest in the proposed rule. Where changes have been made in the final rule, these discussions can be found in the following section-by-section discussions. Responses to these comments and their relationship with the supporting final programmatic environmental impact statement (PEIS) can be found in Appendix M of the final PEIS.

Comment: Preservation of the national forests for future generations. Some respondents stated a desire for the rule to mandate stronger standards to ensure wildlife and wildlife habitats are healthy and resilient; for greater forests protections, and better integration of environmental, economic, and/or social sustainability into future plans and future generations. Some wanted inclusion of guidelines for responsible/sustainable recreation, more restrictions on mining and logging activities, and provisions to limit access to preserve land.

Response: The Department agrees that the preservation of our national forests and grasslands is vital to meet the needs of present and future generations. These comments were reviewed and changes are discussed in the section-by-section responses below. The final rule sets the stage for a planning process that can be responsive to the desires and needs of present and future generations of Americans for the multiple uses of NFS lands. The final rule does not make choices between the multiple uses of a plan area. The unit plans developed under the final rule will provide guidance for future projects and activities.

Comment: General action to protect national forests and grasslands. Some respondents expressed the need for the Forest Service to protect and not destroy the national forests. They expressed the importance of protection for wildlife, diverse ecosystems, riparian areas, priority watersheds, aquatic resources, clean drinking water, endangered species, climate change and air pollution, access for socioeconomic purposes, cultural and traditional resource use, and the natural beauty of the land. They suggested strengthening the wording of the proposed rule for forest protection, compliance, and consistency; inclusion of protection of access to land for recreation; and allowing natural processes to occur. They felt an effective planning rule will reflect the aspirations of diverse communities.

Response: The Department has revised the proposed wording on sustainability, diversity of plant and animal communities, multiple uses, and timber requirements as well as wording in other sections of the final rule to reflect public comments and better ensure the needs of present and future generations. See discussions under the section-by-section response to comments.

Comment: References to individual forests, projects, and individuals. Some respondents commented on issues important to them, but not related to this rulemaking effort. Examples of such concerns include the use of DDT, Millennium Ecosystem Assessment, issues with rental housing, sustainable living, a tornado in southeast Tennessee, a vital wildlife crossing in Montana, Willamette National Forest timber harvest levels, and a suggested wolf/gorilla/elephant/chimpanzee/lion/giraffe sanctuary.

Response: These and other similar comments have been determined to be outside the scope of the development of a planning rule, because they discuss aspects unique to specific forests, grasslands, or municipalities. Many of the concerns raised would be more properly addressed in specific forest and grassland plans themselves, or in the subsequent decisions regarding projects and activities on a particular national forest, grassland, prairie, or other administrative unit, or may be outside the scope of NFS planning.

Comment: Wilderness evaluation procedures. Several respondents felt "sights and sound" should be removed Forest Service directives as a criterion for wilderness inventories.

Response: Criteria for the evaluation of areas for wilderness recommendations are in Forest Service directives, which are in the process of being revised. There will be an opportunity for public comment on the directives before they are finalized. The Department encourages members of the public to provide comment on issues specific to the directives during their revision.

Comment: Changes to other Forest Service regulations. Some respondents commented about which resource uses or activities should be supported or not supported by the Department on NFS lands. They requested requiring, changing, or eliminating regulations for specific activities. These activities included, but are not limited to, NEPA implementation, grazing, mining, logging, road construction and maintenance, special use permits, hunting, certain recreational activities, trail use conflicts, wildland fire suppression, fuels management, educational opportunities, cultural and historic resources, as well as protections for wild horses and burros.

Response: The Department agrees the issues raised are important. However, these comments have been determined to be outside the scope of development of a planning rule. The final rule is intended to provide overall direction for how plans are developed, revised, and amended and for required plan components and other plan content. The final rule and alternatives found in the supporting final PEIS do not provide regulatory direction for the management of any specific resource, except for the NFMA timber requirements. Agency regulations for specific uses can be found in other sections of 36 CFR parts 200–299, which govern management of the national forests, grasslands, and prairie. For example, part 212 regulates administration of the forest transportations system (roads and trails), part 222 regulates range management, including wild horses and burros, and part 223 regulates the sale and disposal of NFS timber. Additional direction may be found in individual plans or in project or activity decision documents. Those communities, groups, or persons interested in these important issues can influence plan components, plan monitoring programs, or subsequent projects or activities by becoming involved in unit planning efforts throughout the process, and by submitting comments on the Forest Service Directives System during opportunities for public comment.

Comment: Funding and staffing levels. Some respondents suggested increased funding and staffing for the enforcement of protection and mitigation standards; the collection of fees from and licensing requirements for users; bonding to ensure restoration activities; sustainable funding for fuel reduction activities; and the retention or creation of specific Agency positions.

Response: These comments have been determined to be outside the scope of the development of a planning rule. The U. S. Congress determines Agency funding levels under its budgetary process. Staffing issues are more properly addressed by specific forest and grasslands, or regional and national offices.

Comment: Transparency and collaboration. Some respondents wanted the public process of land management planning to be kept clear and transparent. Others commented that in addition to transparency, the specific science being used should be shared. Some respondents were concerned that collaboration would result in too much input from local interests and groups. A respondent stated there is no clear definition of collaboration in the DEIS. Another respondent felt the public participation requirements will not result in collaboration and the Forest Service staff would still be doing all of the planning work.

Response: The Department agrees the public process for land management planning must be clear and transparent. Section 219.3 of the final rule requires the responsible official to document how the best available scientific information was used to inform the assessment, plan decision, and design of the monitoring program. Such documentation must: identify what information was determined to be the best available scientific information, explain the basis for that determination, and explain how the information was applied to the issues considered. This requirement will provide transparency and an explanation to the public as to how the best available scientific information was used to inform how the responsible official arrived at important decisions. Section 219.14 includes additional requirements for the plan decision document to increase transparency and explain the rationale for decisionmaking.

Section 219.4 of the final rule lists the minimum specific points during the planning process when opportunities for public participation will be provided, and includes direction to provide meaningful opportunities for public engagement and share information with the public in an open way. To meet these requirements, the responsible official must be proactive in considering who may be interested in the plan, those who might be affected by a plan or a change to a plan, and how to encourage various constituents and entities to engage, including those interested at the local, regional, and national levels. All members of the public will be provided opportunities to participate in the planning process. Section 219.16 provides requirements for public notification to ensure that information about the planning process reaches the public in a timely and accessible manner.

Section 219.19 of the final rule includes definitions for participation and collaboration. Because the make-up and dynamics of the communities surrounding each planning area differ, and because the level of interest in decisionmaking may vary, the final rule provides the responsible official with the flexibility to select the public participation methods that best fit specific planning needs.

Land management planning for NFS lands falls under Forest Service authority and is a responsibility of the Agency. As such, Agency employees are responsible for the preparation of the actual planning documents. Section 219.5(b) states that interdisciplinary teams will be established to prepare assessments; new plans, plan amendments, plan revisions, and unit monitoring programs. However, under § 219.4, the public will have numerous opportunities to participate in the process and contribute to the content of those documents.

Comment: Tribal activities. Some respondents felt the rule should support Tribal activities on NFS land because of important Tribal historical, cultural, sacred areas located there; should facilitate the Tribes' exercise of treaty hunting, fishing and gathering rights; and should require partnering with Tribal entities in the planning process.

Response: The final rule recognizes and does not change the unique government-to-government relationship between the United States and Indian Tribes. The final rule recognizes and does not modify prior existing Tribal rights, including those involving hunting, fishing, gathering, and protecting cultural and spiritual sites. The rule requires the Agency to work with federally recognized Indian Tribes, government-to-government, as provided in treaties and laws, and consistent with Executive orders when developing, amending, or revising plans. The final rule encourages Tribal participation in NFS planning. Further, the rule recognizes the responsibility of Forest Service officials to consult early with Tribal governments and to work cooperatively with them where planning issues affect Tribal interests. Nothing in the final rule should be construed as eliminating public input or Tribal consultation requirements for future projects. The final rule requires consideration of cultural and historic resources, ecosystem services including cultural services, areas of Tribal importance, and habitat conditions needed for public uses such as hunting, fishing and subsistence, in addition to input from Tribes and Alaska Native Corporations.

Comment: Compliance with Federal laws and regulations. Some respondents raised concerns over compliance with Federal laws governing the management of the national forests. Some examples cited include the National Heritage Preservation Act, the Organic Act, the General Mining Act of 1872, the Wilderness Act, the Endangered Species Act of 1973 (ESA), the Alaska National Interest Lands Conservation Act (ANILCA), and the Tongass Timber Reform Act (TTRA). Some were concerned with the influence of court decisions on the scope of the rule.

Response: All alternatives in the final PEIS are faithful to and require compliance with all laws governing the Forest Service, including ANILCA, TTRA, and the other laws identified by respondents. This is reaffirmed in the final rule, § 219.1(f), which states that plans must comply with all applicable laws and regulations—some, but not all, of which are mentioned as examples.

The Secretary has clear authority to promulgate the final rule, and the final rule does not conflict with existing law and policy. The foundation for any exercise of power by the Federal Government is the U.S. Constitution. The Constitutional provision that provides authority for management of public lands is the Property Clause (Article IV, Section 3). The Property Clause states that Congress has the power to dispose of and make all needful rules and regulations respecting land or other property belonging to the United States. Using this authority, Congress entrusted the Secretary of Agriculture with broad powers to protect and administer the National Forest System by passing laws, such as the Organic Administration Act of 1897 (the Organic Act), the Multiple-Use Sustained-Yield Act of 1960 (MUSYA), and the National Forest Management Act of 1976 (NFMA).

The duties that Congress assigned to the Secretary include regulating the occupancy and use of National Forest System lands and preserving the forests from destruction (16 U.S.C. 551). Through the MUSYA, Congress directed the Secretary to administer the National Forest System for multiple use and sustained yield of renewable resources without impairment of the productivity of the land (16 U.S.C. 528–531), thus establishing multiple-use as the foundation for management of national forests and grasslands. The statute defines "multiple use" broadly, calling for management of the various uses in the combination that will best meet the needs of the American people (16 U.S.C. 531). Under this framework, courts have recognized that the MUSYA does not envision that every acre of National Forest System land be managed for every multiple use, and does envision

some lands being used for less than all of the resources. As a consequence, the Agency has wide discretion to weigh and decide the proper uses within any area. (*Wyoming* v. *USDA*, 661 F.3d, 1209, 1267–1268 (10th Cir. 2011); *Perkins* v. *Bergland*, 608 F.2d 803, 806–807 (9th Cir. 1979); and *City & Cnty. of Denver* v. *Bergland*, 695 F.2d 465, 476 (10th Cir. 1982)). In passing the MUSYA, which directs the Forest Service to administer the national forests for "sustained yield of the several products and services obtained therefrom." Congress also affirmed the application of sustainability to the broad range of resources the Forest Service manages, and did so without limiting the Agency's broad discretion in determining the appropriate resource emphasis and mix of uses.

The NFMA reaffirmed multiple use and sustained yield as the guiding principles for land management planning of National Forest System lands (16 U.S.C. 1600, 1604). Together with other applicable laws, the NFMA authorizes the Secretary of Agriculture to promulgate regulations governing the administration and management of the National Forest Transportation System (16 U.S.C. 1608) and other such regulations as the Secretary determines necessary and desirable to carry out the provisions of the NFMA (16 U.S.C. 1613). These laws complement the longstanding authority of the Secretary to regulate the occupancy and use of the National Forest System (16 U.S.C. 551). Forest Service regulations governing subsistence management regulations for public lands in Alaska under the ANILCA are found at 36 CFR part 242, and changes to those regulations are outside the scope of the development of a planning rule.

Some of the Agency's past decisions have been challenged in court, leading to judicial decisions interpreting the extent of Forest Service discretion, or judgment, in managing National Forest System lands. Courts have routinely held that the Forest Service has wide discretion in deciding the proper mix of uses within any area of National Forest System lands. In the words of the Ninth Circuit Court of Appeals, the Agency's authority pursuant to the MUSYA "breathes discretion at every pore." (*Perkins* v. *Bergland*, 608 F.2d 803, 806 (9th Cir. 1979)).

Comment: Regulatory Flexibility Act (RFA) compliance. A respondent questioned whether this rulemaking is in compliance with the RFA and the rule's capacity to respond to the needs of small governments.

Response: The rule has been considered in light of the RFA, as amended by the Small Business Regulatory Enforcement Fairness Act of 1986 (5 U.S.C. 601 et seq.), as documented in the "Forest Service Planning—Proposed Rule: Opportunities for Small Entities Report" (09/22/2010). The Department has determined that the rule will not have a significant economic impact on a substantial number of small business entities as defined by the RFA. Therefore, a full regulatory flexibility analysis is not required. The Department recognizes a large number of small businesses use, extract, or otherwise benefit from access to forest resources. The background information provided in the "affected environment" in the "Efficiency and Effectiveness" section of Chapter 3 in the PEIS describes contributions of NFS lands to small rural and wildland dependent communities, including contributions to jobs and income.

The rule imposes no requirements on small or large entities, nor does it impose requirements or costs on specific types of industries or communities. Rather, the proposed rule sets out a planning process that is designed to provide more opportunities for all affected parties to collaborate in all phases of planning. These opportunities will increase capacity to consider the needs and desires of small entities and reduce the potential for adverse economic impacts. For example, under the final rule, requirements for considering ecosystem sustainability and contributing to social and economic sustainability should facilitate restoration activities and help sustain economic opportunities linked to local or rural communities. Further discussion of compliance with RFA is found in this document under the heading *Proper consideration of small entities.*

Comment: Cooperation beyond NFS boundaries. Some respondents were concerned that the "all lands" approach is not within the Forest Service's authority.

Response: The final rule provides the framework for the development, amendment, or revision of land management plans for national forests, grasslands, prairies, or other administrative units of the NFS. It does not provide the Forest Service with authority to make management decisions for lands that are not NFS lands or activities that are not occurring on NFS units. The Department recognizes that conditions, resources and the management of NFS lands can influence, or be influenced by, the ecological, social and economic conditions and management of non-NFS lands. In recognition of this interaction, the final rule requires the responsible official to look beyond the unit boundary and develop an understanding of management issues on the plan area within the context of the broader landscape, and coordinate with and encourage participation of other relevant land or resource managers. These requirements are found in § 219.4 (public participation), § 219.6 (assessment), § 219.8 (sustainability), § 219.9 (diversity), and § 219.10 (multiple use) of the final rule.

Specific requirements that were brought up by respondents, such as consultation or coordination with the U.S. Fish and Wildlife Service for species listed under the Endangered Species Act of 1973 or with State Air Quality Boards for air quality management under the Air Quality Act, are addressed elsewhere in Agency regulation and policy. The final rule does not include or reiterate existing direction provided elsewhere.

Comment: Public input on subsequent planning directives. Some respondents felt the development of the planning directives should be open to public comment.

Response: It is the intent of the Department that the Agency continue to move forward with the open and collaborative approach taken to developing the proposed and final rules. The Agency will provide a public comment period for the planning directives.

Efficiency and Effectiveness Comments on the Proposed Rule

Comment: Process. A respondent said there are too many mandates in the rule for the responsible official to follow, thus making the proposed rule burdensome and difficult to implement. Another respondent felt the amount of process requirements and paperwork in the proposed rule would slow down the planning process.

Response: The final rule uses an adaptive management framework that will facilitate an efficient and implementable planning process. Overall, there are fewer procedural requirements in this final rule than were required by the 1982 planning procedures, and the Agency expects that individual plans will take less time and cost less money to complete. There are a number of analysis and procedural requirements under the 1982 Planning Rule that will no longer be required under the final rule, which will save considerable time, effort, and money. The 1982 planning rule places a great deal of emphasis on using economic analyses to find the solution to planning

problems and challenges. However, the final rule emphasizes public participation and science. Examples of requirements from the 1982 rule not included in the final are: planning criteria, required benchmark alternatives as part of the analysis of the management situation, the projections of demand using both price and non-price information, alternative criteria including Resources Planning Act Program alternative, present net value analysis, comparison of final plan to maximizing present net value alternative, identification of the management intensity for timber production for each category of land which results in the largest excess of discounted benefits less discounted costs, vegetation management practices chosen for each vegetation type and circumstances, and projections of changes in practices for at least four decades.

The framework will facilitate more collaboration with the public and an efficient amendment process. The rule allows administrative changes to plan content other than plan components to help the responsible official adapt to changing conditions, while requiring the responsible official to notify the public.

Comment: Significance of the rule. Some respondents felt that the Forest Service fails to address the rule as "significant" under E.O. 12866;

Response: The proposed rule was designated as significant by the Office of Management and Budget and, therefore subject to the Office of Management and Budget review. The Agency reviewed this proposed rule under the Department procedures and Executive Order (E.O.) 12866 issued September 30, 1993, as amended by E.O. 13563 on Regulatory Planning and Review (76 FR 3821 (Jan. 21, 2011)). The Agency prepared two Cost Benefit Analysis reports (Jan. 25, 2011 for the proposed rule, Nov. 17, 2011 for the final rule). The reports discuss the regulatory impact analysis requirements associated with E.O. 12866 and 13563 and OMB circulars. In comparison to the "no action" alternative, which would continue to use the 1982 procedures currently allowed under the transition provisions of the 2000 rule, the final rule is not considered an economically significant rule.

Comment: Cost-benefit analysis. Some respondents felt that the Forest Service did not account for a sufficient range of costs and benefits, including the costs, benefits, and economic impacts resulting from implementation of revised or new plans.

Response: The analysis in the "Efficiency and Effectiveness" section of the DEIS and final PEIS focused primarily on evaluations of programmatic planning efficiency. Additional details about the potential for specific planning costs and cost effectiveness to change under the final rule is provided in the final PEIS and Appendix A of the Cost Benefit Analysis Report (Nov. 17, 2011) for the final rule. Although overall planning costs for the Agency under the new rule are not projected to be substantially different from the 1982 rule, the projected cost per plan is expected to be lower than under the 1982 rule, the time it takes to revise a plan is projected to be shorter, and it is expected that more plans will be revised in a 15-year period. In addition, it is anticipated that units will have greater capacity to maintain the currency and reliability of plans to meet the objectives of the MUSYA, the NFMA, and the planning rule (§ 219.1(b)/(c)), thereby improving the quality of plans and therefore the efficiency of the planning process.

Comment: Economic impacts such as minerals. Some respondents felt that the Forest Service failed to assess economic impacts that reflect renewable and non-renewable resource sectors (for example, minerals) as well as other sector-specific impacts.

Response: Economic impacts in terms of numbers of jobs and labor income supported by NFS lands, by program, are provided for 2009 in Appendix M of the final PEIS, accounting for direct, indirect, and induced effects. Though economic impacts are not estimated, Appendix C in the Cost Benefit Analysis report for the final rule (2011) provides a limited qualitative discussion of potential indirect effects related to timber, rangeland, and recreation opportunities under baseline conditions. Jobs and income for minerals activity have been included in baseline impact analysis, recognizing that minerals management is administered jointly between the Department of the Interior and the Forest Service. Impacts of the final rule to jobs within specific industry sectors as compared to the other alternatives in the PEIS have not been evaluated as these impacts cannot be determined in the absence of on-the-ground project activity at the unit level.

Comment: Economic benefits of monitoring and ecosystem services. Some respondents felt that the Forest Service should identify benefits from comprehensive monitoring and provision of ecosystem services.

Response: The programmatic benefits of planning tasks or requirements such as comprehensive monitoring (§ 219.12(b)), development of plans to sustain multiple uses (§§ 219.1(b) and 219.10), and accounting for ecosystem services when guiding unit contributions to sustainability (§ 219.8(b)) are accounted for in the discussion of contributions to overall planning efficiency in the "Efficiency" section of Chapter 3 of the final PEIS as well as the "Cost Benefit Analysis" for the final rule (2011).

As identified by the definition of ecosystem services in § 219.19 of the final rule, benefits from provision of ecosystem services are from provisioning services (for example, timber, forage, clean water, and so forth), regulating services (for example, water filtration, soil stabilization, carbon storage, and so forth), supporting services (for example, nutrient cycling, pollination and so forth), and cultural services (for example, spiritual, heritage, recreational experience, and so forth).

As noted in the Cost Benefit Analysis for the final rule in the "Efficiency and Effectiveness Impacts" section, the programmatic benefits of comprehensive monitoring include improved capacity to gather information and reduce uncertainty for a number of integrated and broader-scale conditions, trends, drivers, and stressors—including capacity to detect effects of management within unit boundaries as well as stressors beyond unit boundaries that affect (or are affected by) unit conditions and action. Emphasis on coordination between unit and broader-scale monitoring is expected to help reduce redundancy and ensure information is complementary and consistent.

Comment: Collaboration costs. Some respondents felt that the Forest Service did not properly identify that collaboration is not always efficient or cost-effective, may not result in planning efficiency, and that its use should be based on risk assessments.

Response: Collaboration and public participation costs are projected to increase from approximately $1 million annually under the 1982 rule provisions, to $11 million annually under this final rule. This increase reflects the requirements in the final rule for public participation opportunities at various stages of planning. The final rule also states that outreach and collaborative processes should be used where feasible and appropriate (§ 219.4(a)). The Department recognizes that gains in effectiveness and planning efficiency from collaboration may vary across units and be reflective of existing collaborative capacity. The Agency realizes collaboration cannot guarantee a

successful planning process; however, the Department and the Agency believe that the increased investment in public participation will likely result in a more effective and ultimately more efficient planning process, by building support early in the process. Details on assumptions relevant to the consideration of the costs of collaboration can be found in the final PEIS section on Efficiency in Chapter 3.

Comment: Cost of collaboration, diversity, and litigation. Some respondents felt that the Forest Service omitted costs associated with amendments, litigation, involvement by non-Federal participants, and requirements related to viability and diversity so that these are not accurately reflected or underestimated. Some respondents also felt that the Forest Service projections about planning efficiency and cost effectiveness gains are incorrect, particularly when considering viability requirements, litigation, and use of collaborative processes.

Response: As noted in § 219.13 of the final rule, the requirements for amendments are simpler than requirements for plan development or revision. The final rule allows amendments to be proposed without completing an assessment. As a consequence, the amount of resources associated with amendments is expected to be substantially less than that required for plan development or revision in many cases. Amendments allow for plans to be changed more quickly to respond to changing conditions on the ground than plan revisions.

The Department expects that the adoption of new approaches under the final rule for addressing species viability and diversity within plan components, while recognizing local land and unit capabilities and limits, will increase the feasibility as well as the effectiveness of responding to species and ecosystem diversity, sustainability and recovery needs. Further it is expected the final rule will increase overall planning efficiency for both plan management planning and project-level analysis.

Estimates of the Agency's costs do not account for litigation costs. The costs of litigation are not included in the estimates of annual average Agency costs in the "Efficiency and Effectiveness" section in Chapter 3 of the final PEIS. The sources of information used to estimate planning costs, including past cost benefit analyses completed for previous planning rules, did not include litigation costs. Much of the litigation related to planning occurs at the project level, and it is difficult to separate out litigation costs for land management planning from other Agency expenses. Though litigation costs are not included in the efficiency analysis, it is expected that the pre-decisional objection process contained in subpart B of the final rule and the investments in public participation will lower litigation costs compared to the former post-decisional appeal process and fewer opportunities for public input under the 1982 rule procedures.

Comment: Efficiency analysis during plan revision. Some respondents felt it important that shifts in resources in the planning process should not adversely affect or preclude analysis of impacts and effects. They further emphasized that analysis of effects including efficiency analysis are still needed to evaluate plan alternatives. Some respondents felt the rule should outline a planning process that reduces costs of planning and should require that plan alternatives be economically efficient. A respondent suggested that the Agency keep the goal of "maximizing net public benefits" from the 1982 planning procedures because the respondent believes that goal is necessary to insure consideration of economic and environmental aspects of renewable resource management. The respondent suggested the planning rule require evaluation of economic efficiency by a full accounting of all costs and benefits (especially non-market) using dollars and present net value.

Response: The Department believes that the framework for adaptive management provided in the final rule is efficient, effective, and will reduce the cost and time needed for development, revision, and amendment of individual plans. The final rule provides direction that the planning process and plan components and other plan content should be within the Agency's authority and the fiscal capability of the unit (§ 219.1(g)).

Analyses will focus on outcomes and analysis of impacts and effects. Analyses will in no way be eliminated or discouraged during the planning process under this new rule. Under the NEPA process during plan revisions and plan amendments, responsible officials will evaluate potential tradeoffs among alternatives as they relate to ecological, social, and economic sustainability and environmental effects.

The Department has chosen to emphasize a rule that supports ecological, social, and economic sustainability as the primary goal for management of NFS lands. The final rule does not include requirements to demonstrate that plans will maximize net public benefits or require valuation of economic efficiency or require present net value analysis as the 1982 rule did. The Department believes the focus should be on collaboration, science, and sustainability, rather than the extensive analysis that was done under the 1982 rule procedures. The Department decided the purpose and applicability of the final rule (§ 219.1) is to produce plans under which the Forest Service will manage NFS lands to sustain multiple uses in perpetuity while maintaining long-term health and productivity of the land. Plans are intended to guide management of NFS lands so they are ecologically sustainable and contribute to social and economic sustainability while providing people and communities with a range of benefits, consistent with MUSYA and NFMA. Under the final rule, responsible officials have the discretion to decide what analysis is useful to inform the public about the effects of plans, plan amendments, and plan revisions.

Comment: Diverting of funds from projects. Some respondents felt that the rule must weigh the resources devoted to planning against the need to provide a foundation for management. In other words, excessive planning costs divert funds away from land management and projects.

Response: Overall, the cost and time of completing an individual plan, revision, or amendment is expected to be less than that needed using the 1982 rule procedures. Under the final rule the Department: (1) Applies flexibility within a clearly defined national-level framework, and (2) requires plans to be developed in a more cooperative context with both community and scientific involvement, thereby building stakeholder trust. In addition, as compared to the 1982 rule, the final rule changes the planning process and reallocates resources to improve the currency, reliability, and legitimacy of plans. This attention to building support early and throughout the process is intended to improve the effectiveness of plans and the Agency's ability to implement projects developed under plans.

Comment: Non-market values. Some respondents felt that the rule should require the need to determine non-market values to comply with NFMA requirements to consider economic aspects of various systems of renewable resources.

Response: The NFMA requires a planning rule to insure consideration of the economic and environmental aspects of the various systems of renewable resource management (16

U.S.C. 1604(g)(3)A). The rule requires consideration of economic aspects in the requirements for an assessment and when developing plan components. However, the NFMA does not require the responsible official to determine non-market values or to quantify non-market benefits. Because of the difficult nature of quantifying and valuing non-market goods and services, the Department has decided not to require those calculations as a part of planning under the final rule. The rule requires plan components to contribute to economic sustainability, which includes consideration of market and non-market benefits. Additionally, in a number of sections, the rule requires consideration of ecosystem services and multiple uses, including provisioning, regulating, and cultural services, all of which involve numerous non-market goods and services (for example, Assessment—§ 219.6(b); Social and economical sustainability—§ 219.8(b); and Multiple use—§ 219.10(a)). These requirements, in combination with public participation early and throughout the planning process (§ 219.4), are expected to improve Agency capacity to acknowledge the relative values of both market and non-market goods and services. Under NEPA requirements, the responsible official will carry out effects analyses for significant issues and the environmental documents will discuss the comparative benefits and tradeoffs associated with non-market ecosystem services.

Comment: Pilot testing. One respondent noted that the rule should be pilot tested on a sample of units.

Response: The Agency intends on phasing in the implementation of the new rule by starting several plan revisions in 2012. This initial phase of implementation will provide opportunities for the Agency to adapt to and refine directives and technical advice for planning under the new rule. Units selected for the initial phase of implementation of the final rule represent a broad spectrum of conditions and are geographically representative. The final rule is intended to provide a flexible planning framework that allows for continuous learning and improvement in implementation.

Comment: Budget shortfalls. Some respondents felt that the rule should contain guidance for planning in the event of budget shortfalls.

Response: Uncertainties at all levels of decisionmaking, due to changing conditions outside the Agency's control as well as budget allocations, will affect implementation. These uncertainties also influence anticipated outcomes of the rule (see Chapter 3 of the final PEIS, "Staged Decisionmaking and Environmental Analysis"). It is not appropriate to give guidance about what planning activities may be reduced in the event of budget shortfalls in the national planning rule, since budgets, staffing, program emphasis, and planning needs differ among the units. However, the final rule does provide direction that the planning process and plan components and other plan content should be within the Agency's authority and the fiscal capability of the unit (§ 219.1(g)).

Comment: Budget expectations. Some respondents felt that the rule should require estimates of budget expectations in analysis of efficiency and effectiveness, and plan alternatives.

Response: The final rule recognizes potential financial constraints by requiring the responsible official to ensure that the planning process, plan components, and other plan content be within the fiscal capability of the unit (§ 219.1(g)). In the context of developing alternative plan components, § 219.7(e)(1)(ii) of the rule states that "Objectives should be based on reasonably foreseeable budgets." Also the final rule sets out the requirements for developing plan monitoring program within the financial and technical capabilities of the Agency (§ 219.12(a)(4)(ii)). The effects of plan alternatives such as budgetary effects will be disclosed when preparing an environmental impact statement for each new plan or plan revision.

Comment: Secured appropriations. Some respondents felt that a lack of secured appropriations for planning rendered the rule ineffective. Some respondents felt that future budgets are unlikely to provide full funding for planning.

Response: If severe reductions or elimination of funding for land management planning were to occur, it would delay or reduce the Agency's ability to amend and revise plans. It is important to note that the estimated costs for the new rule (Table 6 in the final PEIS) are within the historic range of aggregate planning, inventory, and monitoring annual budgets (1995–2010).

Comment: Economic analysis for plan revisions. Some respondents felt that the rule should require the NEPA analysis for the plan to include a fiscal analysis of each alternative's implementation and mitigation costs and require that the cost of inspections, enforcement, and monitoring be included in the plan NEPA analysis. Several respondents felt that the planning rule should include a requirement for explicit disclosure of a variety of costs and benefits of Agency actions to more accurately compare plan alternatives and plan components. Some respondents felt that the planning rule must require the estimates of present net value (PNV) for plan alternatives and projects and include all costs and benefits. Some respondents felt that the planning rule must require that the dollar cost of impacts on non-timber industries be estimated and included in estimates of PNV.

Response: Section 219.5(a)(2)(i) of the final rule states that a new plan or plan revision requires preparation of an environmental impact statement. The NFMA gives considerable discretion to the Agency when considering physical, economic, and other pertinent factors. The Department does not want the planning rule to prescribe specific processes for assessing and evaluating economic efficiency. Cost-benefit analyses, or net present value estimation, are not required when evaluating plan alternatives; however, such an analysis (quantitative and/or qualitative) may be useful in some cases to satisfy the NEPA objectives (42 U.S.C. Sec 4331, 101 and 102(2)) and to demonstrate fulfillment of MUSYA goals (for example, "management of all the various renewable surface resources of the national forests so that they are utilized in the combination that will best meet the needs of the American people;" (16 U.S.C. 531(a))). The Forest Service handbook for NEPA (FSH 1909.15, chapter 20, section 22.32) states that if a cost benefit analysis is being considered for a proposed action (for example, proposed plan revision), it must be incorporated by reference or appended to the environmental impact statement as an aid in evaluating the environmental consequences. The Forest Service Handbook (FSH 1909.15.section 22.32) as well as NEPA regulations (40 CFR 1502.23) state that for purposes of complying with the [NEPA], the weighing of the merits and drawbacks of the various alternatives need not be displayed in a monetary cost-benefit analysis and should not be when there are important qualitative considerations. The Handbook and NEPA regulations also state that an environmental impact statement should at least indicate those considerations, including factors not related to environmental quality, that are likely to be relevant and important to a decision. Those considerations and factors may include a variety of quantified or qualitative descriptions of costs and benefits that are linked to significant issue determinations for a particular forest plan. The Department requires that land management plans will be

within the fiscal capability of the unit (§ 219.1(g)). The rule requires that objectives be based on reasonably foreseeable budgets (§ 219.7(e)(1)(ii)) and that the monitoring program be within the financial and technical capabilities of the Agency (§ 219.12(a)(4)(ii)). Clarifications about disclosure of costs and benefits, as well as use of cost-benefit (or PNV) analysis are more appropriately included in the Agency directives.

Comments: Collaboration costs. Many respondents supported public participation opportunities in the decisionmaking process. Some respondents felt collaboration will not be cost effective. Some felt that coordination, as mandated by law, is effective and will save time and expense in planning, implementation, and management. They said increased costs for collaboration are foreseeable. Some respondents felt the assumptions that collaboration will reduce monitoring costs and bring broader support and resolution of issues with their critics were faulty. They felt the final PEIS should explain how collaboration will lead to cost savings and document savings expected from each alternative.

Response: The Department believes that involving the public early on through a participatory, open, and meaningful process is the best way to approach planning. The final rule sets out a planning process that is designed to provide more opportunities for the public to collaborate with the Agency and to become more involved in all phases of planning, including monitoring, assessment, and development of alternatives for land management plan revisions or amendments. Section 219.4 of the final rule requires the responsible official to engage the public in early and meaningful opportunities for participation during the planning process and to coordinate with other public planning efforts, including State and local governments. However, the final rule gives the responsible official discretion to tailor the scope, scale, and types of participation opportunities to be congruent with the need and level of interest, subject to the requirements of section 219.4. Collaborative processes would be used where feasible and appropriate.

The final PEIS does not demonstrate that collaboration will lead to Forest Service cost savings in planning. Because of the public participation and collaboration throughout the planning process, the Department expects that the cost for collaboration and engaging the public during the planning process would be higher than that under the 1982 procedures. However, it is anticipated that overall planning efficiency will be improved as other planning activities such as analyzing and revising plan components are anticipated to be streamlined. It is also expected that increased participation and collaboration throughout the planning process will increase support for eventual plan implementation.

Comment: Jobs and income. Some respondents felt that the proposed rule could have a significant effect on jobs, labor income, production, and competition of a particular resource during plan revision and plan amendment.

Response: The Department recognizes that plans developed, revised, or amended under the final rule will guide projects that could in turn affect distribution of employment, income, and payments to local governments. Impacts to jobs within specific industry sectors due to the final rule compared to the other alternatives have not been evaluated in detail as these impacts cannot be determined in the absence of on-the-ground project activity at the unit level. Direct effects on the levels of goods, services, and uses to which NFS lands contribute are the end-results of on-the-ground projects or activities.

The effects of plan proposals as well as proposed projects will continue to be evaluated in accordance with NEPA; impacts to employment, income, and payments will likewise continue to be evaluated as appropriate to the need to address plan or project-specific significant issues. The Department does not want the planning rule to prescribe specific processes for assessing and evaluating economic effects. Such direction, guidance, advice, or approaches for effects analysis in general are found in the Agency directives (for example FSM 1970 and FSH1909.17).

Comment: Site-specific project costs. Some respondents felt that the Agency incorrectly assumes that the site-specific project costs are not affected by the proposed rule.

Response: The Agency did not assume that the site-specific project costs are not affected by the proposed rule. However, the proposed rule cost and benefit analysis did not estimate the effects of the rule on site-specific projects developed under land management plans, because site-specific project costs are a function of unknown future site-specific plan or project proposals occurring under new, revised, or amended plans under the final rule; it is, therefore, not possible to estimate or characterize changes in project-specific costs.

Comment: Least burden to society. Some respondents felt the Forest Service should develop the rule in a way that imposes the least burden on society, businesses, and communities.

Response: The Department believes that the final rule supports management of the NFS to contribute to social and economic sustainability. The rule does not directly regulate individuals, individual businesses, or other entities such as local or State governments. Impacts to small entities are addressed in the Regulatory Flexibility Analysis (as summarized in the Regulatory Certifications section of the preamble for the final rule).

Comment: Costs of cumulative regulations. Some respondents felt the Forest Service should consider the costs of cumulative regulations.

Response: The potential effects of the rule in combination with other broad Agency actions and strategies (for example, roadless rules, strategic plans and other Agency goals, NEPA procedures, transition to implementing the final rule, management planning direction by other agencies, and collaboration) are presented in the "Cumulative Effects" section of the final PEIS.

Comment: Costs to States (Federalism). Some respondents felt the Forest Service incorrectly concludes that the rule will not impose direct or compliance costs on States (that is, Federalism).

Response: Executive Order 13132 (that is, Federalism) establishes requirements the Federal Government must follow as it develops and carries out policy actions that affect State or local governments. The Department concludes that the rule would not impose compliance costs on the States (or local governments) and would not have substantial direct effects on the States.

Section-By-Section Explanation of the Final Rule

The following section-by-section descriptions are provided to explain the approach taken in the final rule to NFS land management planning.

Subpart A—National Forest System Land Management Planning

Section 219.1—Purpose and Applicability

This section of the final rule describes the purpose of the rule and its applicability to units of the NFS. This section affirms the multiple-use, sustained-yield mandate of the Forest Service, and states that the purpose of this part is to guide the collaborative

and science-based development, amendment, and revision of land management plans that promote the ecological integrity of national forests and grasslands and other administrative units of the NFS. The NFMA requires the Agency to have a planning rule developed under the principles of the Multiple-Use Sustained-Yield Act of 1960 (MUSYA). The planning rule sets requirements for land management planning and content of plans and applies to all units in the NFS.

The requirements in the final rule should increase Agency and plan area capacity for adapting management plans to new and evolving information about stressors, changing conditions, and management effectiveness. The Department's intent is for responsible officials to use the planning framework to keep plans and management activity current, relevant, and effective.

Section 219.1—Response to Comments

Many comments on this section focused on consistency with MUSYA, compliance with or applicability of valid existing rights, treaties, and applicable laws, and the cost of the process for implementing the rule. The Department modified the wording of the proposed rule to move a reference to "ecosystem services" from paragraph (a) of this section to paragraph (c); add at paragraph (c) "clean air" as a benefit provided by ecosystem services and replace the term "healthy and resilient" with "ecological integrity;" move direction about the Forest Service Directives System previously in paragraph (d) of this section in the proposed rule to § 219.2(b)(5); and make other clarifications for readability. These changes are not changes in requirements; they are just clarifications and reorganizations.

The Department added direction at paragraph (g) of this section to ensure that the planning process, plan components and other plan content are within Forest Service authority, the inherent capability of the plan area, and the fiscal capability of the unit. In the proposed rule we had similar wording in §§ 219.8 through 219.11. Adding this requirement in paragraph (g) is a change because the requirement now applies more broadly to the process and content requirements of the final rule.

Comment: Ecosystem services. Some respondents objected to the use of "ecosystem services" in § 219.1(b) and throughout the rule. One respondent felt the term diluted the congressionally honored and sanctioned "multiple use" mission of the national forests.

Response: The use of the term "ecosystem services" has been removed from § 219.1(b), added to § 219.1(c), and revised throughout the final rule; however, the final rule retains reference to "ecosystem services." The final rule states that plans must "provide for ecosystem services and multiple uses" instead of "provide for multiple uses, including ecosystem services" as it was stated in the proposed rule. The Department believes this revised wording is consistent with the MUSYA, which recognizes both resources and services. The MUSYA requires the Forest Service is to "administer the renewable surface resources of the national forests for multiple use and sustained yield of the several products and services obtained therefrom." (16 U.S.C. 529). The Act defines "multiple use" as "the management of all the various renewable surface resources of the national forests so that they are utilized in the combination that will best meet the needs of the American people; making the most judicious use of the land for some or all of these resources or related services" (16 U.S.C. 531(a)). The Department believes MUSYA anticipated changing conditions and needs, and the meaning of "several products and services obtained" from the national forests and grasslands incorporates all values, benefits, products, and services Americans know and expect the NFS to provide. Resources like clean air and water are among the many ecosystem services these lands provide.

Comment: Objective of planning. Some respondents felt the MUSYA refers expressly to five tangible objectives for forest management (recreation, range, timber, watershed, wildlife and fish, and wilderness), and does not include intangibles such as "spiritual sustenance." They felt intangibles should be removed from objectives.

Response: The Department believes the mandate under the NFMA and MUSYA is not exclusive to a single resource or use, and that sustained yield applies to all multiple use purposes, including outdoor recreation, range, timber, watershed, wildlife and fish, and wilderness. Development of balanced plans for national forests and grasslands is a complex undertaking, and often there are diverse opinions on the desired conditions and objectives set in these plans. The rule sets up a process so individual forests and grasslands are managed with a balanced approach to best meet the needs of present and future generations of Americans. The Department recognizes Americans expect a range of benefits and services from the National Forest System, which can include both tangible objectives and intangible benefits. Under § 219.4, the final rule sets forth an open process for public collaboration, participation, and coordination to inform desired conditions and objectives for NFS lands. The words "spiritual sustenance" in § 219.1(c) of the proposed rule have been changed to "spiritual...benefits" in this final rule because the word "sustenance" was confusing.

Comment: Valid existing rights. A respondent felt the rule should require plans to expressly state that their provisions cannot affect valid existing rights established by statute or legal instrument.

Response: Whether the plan expressly states it or not, a land management plan cannot affect treaty rights or valid existing rights established by statute or legal instruments. For clarity, the final rule acknowledges this fact in § 219.1(d).

Comments: Inclusion of other laws. Some respondents requested that the list of laws at § 219.1 include the ANILCA, the Alaska Native Claims Settlement Act, the FLPMA of 1976, the General Mining Law of 1872, the National Heritage Preservation Act, the Tongass Timber Reform Act, amongst others.

Response: The list of laws in § 219.1 is not intended to be a complete list of laws and regulations requiring Agency compliance. The Department did not choose to include an exhaustive list of applicable laws and regulations, as the Agency is obligated to comply with all applicable laws and regulations regardless of whether it is referenced in the text of the final rule. All plans and planning decisions must comply with applicable laws and regulations.

Comment: Use of fiscal capability. Some respondents felt the MUSYA does not allow the fiscal capability or economic analysis to limit management as discussed in §§ 219.10 and 219.11 of the proposed rule, while others felt these concepts should be applied to all requirements.

Response: Congress determines the annual fiscal allocation to the Agency. The Department concludes that responsible officials must constrain the development of management direction within the plan and planning process within a unit's expected fiscal capability. The Department came to this conclusion because if a responsible official develops a plan beyond a unit's fiscal capability, then management towards the plan objectives and thus plan desired conditions will not be realistic or possible. The Department removed the phrase "and the fiscal capability of the unit" from § 219.10 and § 219.11, and added at § 219.1(g) that

the responsible official shall ensure that the planning process, plan components and other plan content are within Forest Service authority, the inherent capability of the plan area, and the fiscal capability of the unit. This requirement at § 219.1(g) applies to all sections of the rule, including sections 219.8, 219.9, 219.10, and 219.11.

Section 219.2—Levels of Planning and Responsible Official

Planning occurs at three levels—national strategic planning, NFS unit planning, and project or activity planning. Section 219.2 of the final rule describes these levels of Agency planning, identifies the responsible official, and describes specific attributes and requirements for unit-level planning. This section also provides the basic authorities and direction for developing, amending, or revising a plan. In addition, it identifies the responsibilities of the Chief for oversight, leadership, and direction.

Some people wanted to see very detailed requirements in the rule, such as monitoring methods and protocols, while others emphasized the need to keep the rule simple, so it would endure and could be implemented across different landscapes within the NFS. This section ensures that the Agency will establish additional needed details in the Directives for effective implementation of the planning rule, while allowing rule wording to remain relevant even as conditions change.

Section 219.2—Response to Comments

Many comments on this section focused on the level of the responsible official, the appropriate scale for planning, and consistency of plans across the NFS. The Department modified the wording from the proposed rule to address concerns raised by the public and other regulatory agencies that more specific requirements were needed to ensure consistent implementation of the rule. The Department moved wording formally in section 219.1 of the proposed rule to this section and added paragraph (b)(5) that requires the Chief:

(i) To establish direction for NFS land management planning under this part in the Forest Service Directives System (what was formerly § 219.1(d) in the proposed rule);

(ii) To establish and administer a national performance oversight and accountability process to review NFS land management planning under this part; and

(iii) To establish procedures in the Forest Service Directives System (Directives) to guide how data on various renewable resources, as well as soil and water will be obtained to respond to 16 U.S.C. 1604(g)(2)(B).

The addition of the oversight requirement in (ii) is a minor change in requirements in response to the comments received. The other changes are not changes in requirements, they are just clarifications.

Comment: Level of responsible official and consistency with regional or national programs. Some respondents felt the proposed change from regional forester to forest supervisor for the level of responsible official would make the plan more responsive to local situations. Others felt this change would result in inconsistencies across unit boundaries, limit collaborators, and reduce the accountability provided by a higher level responsible official. Several respondents felt the discretion given to local responsible officials in the proposed rule could lead to individual forest and grassland level plans that are inconsistent with neighboring unit plans and with regional or national programs.

Response: The responsible official will usually be the forest or grassland supervisor, who is most familiar with the resources, issues, and the people relevant to and interested in the unit. However, § 219.2(b)(3) provides the option for higher-level officials to act as the responsible official for a plan, plan amendment, or plan revision across a number of plan areas. Regardless of what level they are, the responsible official must develop, amend, or revise plans within the framework set out by this final rule and is accountable for compliance with the rule and the multitude of relevant laws and policies. To ensure compliance, the final rule wording identifies in § 219.2(b) the Chief as responsible for leadership in carrying out the NFS land management planning program, establishment of planning direction, and administration of a national oversight process for accountability and consistency.

There are also a number of places in the final rule that call for coordination with other staff in the Agency, including the appropriate research station director. The Department anticipates that the regional forester and regional office planning and resource specialists will continue to be involved and provide an additional level of oversight, including reviewing draft and final products developed during the planning process and participating in the development of those products. Regional office engagement will help to provide consistency in interpretation and implementation of the planning rule and other Agency planning requirements on units within the region.

The final rule includes other requirements at § 219.4 for public participation and coordination with other planning efforts. The final rule also requires in § 219.15 that other resource plans be consistent with the plan components. The Department anticipates that the final rule will be implemented in the context of a mosaic of other Agency programs, for example, the Climate Change Roadmap and Scorecard, the Watershed Condition Framework, and the Sustainable Recreation Framework. The Department expects that these programs and requirements will be mutually supportive and will contribute to good land management.

Comment: Scale of planning. Some respondents expressed different opinions about the scale of planning. Some suggested larger or smaller scales than the proposed administrative unit level. One respondent felt the rule should consider a level of planning by resource. Some respondents felt the rule should require use of the U.S. Geologic Survey 5th field hydrologic unit as the minimum size needed to conduct ecological coarse-filter assessments.

Response: The final rule allows planning at the most appropriate scale to address issues and resource concerns specific to that unit. The final rule does set forth requirements to consider other scales while developing plans. Section 219.7(f)(1)(ii) requires the responsible official to describe the distinctive roles and contributions of the plan area within the context of a broader landscape. Section 219.7(f)(1)(i), specifically discusses priority watersheds. Section 219.7(d) requires the use of management or geographic areas for a smaller scale geographic context and identification of management requirements that may be needed at the smaller scale. The final rule also provides that two or more responsible officials may undertake joint planning for their units.

Planning at the resource level would not comply with the NFMA requirements for interdisciplinary approach to achieve integration of all resources to achieve integrated consideration of physical, biological, economic, and other sciences to develop one integrated plan.

Requirements for broader-scale assessments and assessments for each individual watershed are not included in the final rule. Adding these requirements would add more preliminary steps to planning that may further delay completion of plan revisions or amendments and may not

be necessary for the planning process. The assessments envisioned in the planning rule are focused on gathering and evaluating existing information relevant to the plan or the specific plan area.

The 1982 rule required the preparation of a regional guide and a planning process for the development of that guide. The final rule does not include a requirement for regional planning. After several years of developing and using regional guides, the Agency found that they added an additional and time-consuming layer of planning that often delayed progress of unit planning. Regional plans also tended to remain static and did not change as new information or science became available.

Comment: Relationship of plan decisions to project-level plans and decisions. Several respondents felt the relationship between plan decisions and subsequent project-level decisions was unclear. A respondent felt the rule should explicitly state a programmatic decision is being made for the planning unit.

Response: The final rule sets the framework for the development, amendment, and revision of unit plans: The requirements set forth in the final rule are for plans, not for projects or activities that are developed under the plan. Section 219.15 requires projects and activities carried out under the plans developed under the final rule to be consistent with the plans. Unit plans may establish constraints on projects and identify possible activities; however, plans do not authorize activities or projects. Forest Service NEPA procedures must be followed when developing, revising, or amending plans. In addition, the Forest Service NEPA procedures must be followed for proposed site-specific projects or activities developed under the requirements of the unit plan. Section 219.15(d) of the final rule identifies how project and activities must be consistent with plan components.

Comment: Repeating of laws and regulations. Several respondents felt proposed § 219.2(b)(2) should clearly state plans "may reference, but should not repeat" laws, regulations, and so forth.

Response: The final rule does not prohibit referencing laws, regulations, or Forest Service directives if the responsible official feels that doing so will add clarity.

Section 219.3—Role of Science in Planning

This section requires that the responsible official use the best available scientific information to inform the planning process and plan decisions, and provides requirements for documenting the use of the best available scientific information (BASI). The intent of this requirement is to ensure that the responsible official uses BASI to inform planning, plan components, and other plan content, that decisions are based on an understanding of the BASI and that the rationale for decisions is transparent to the public. The Department also expects that this requirement will increase the responsible official's understanding of risks and uncertainties and improve assumptions made in the course of decisionmaking.

Section 219.3—Response to Comments

Many people provided comments on this section of the proposed rule. Most comments focused on whether or not to include a requirement for use of the BASI, discretion about how science should be used, and the potential procedural burdens created by this requirement. The Department modified the wording of the proposed rule as follows: (1) To clarify how scientific information is to be used in the planning process; (2) to clarify the level of discretion the responsible official has in using scientific information; and (3) to manage the potentially burdensome requirements for documentation.

The Department clarified how BASI will be used in the planning process; changing the wording from "the responsible official shall take into account the best available scientific information," to "the responsible official shall use the best available scientific information to inform the planning process." This clarification is consistent with the Department's intent as described in the preamble to the proposed rule. This clarification is in response to public comments expressing concern that the proposed rule wording would allow the responsible official to ignore best available scientific information. This wording makes clear that the responsible official must use the BASI to inform the process and decisions made during the planning process.

The Department also modified the requirement that the responsible official "determine what information is the most accurate, reliable, and relevant to a particular decision or action" to a requirement that the responsible official "determine what information is the most accurate, reliable, and relevant to the issues being considered." This change focuses the requirement on the issues being considered, because the underlying issues form the basis for decisionmaking, and are the appropriate focus for the requirement to ensure that the responsible official uses scientific information to inform plan-related decisions.

The Department eliminated paragraphs (a), (b), and (c) of § 219.3 of the proposed rule. The remaining paragraph was modified to require the responsible official to document how the best available scientific information was used to inform the assessment, the plan decision, and the monitoring program. Changing these requirements is responsive to public comments about the process associated with meeting the requirements of this section.

Comment: Best available scientific information. A respondent felt the term "best available scientific information" used in the proposed rule is value laden and implies judgment that cited scientific information is potentially superior to other scientific information on the topic. This respondent felt using the term would put responsible officials in the position of choosing one scientist over another. Additionally, the concern was expressed that the lack of a clear definition of "best available scientific information" in the rule could allow a responsible official to use poorly constructed or subjective information to inform planning decisions. Still other respondents felt the proposed rule was unclear on who should determine what the best available scientific information is.

Response: The Department decided to retain the term "best available scientific information" (BASI) from the proposed rule, and to require that such information be used to inform the assessment, the planning process, and plan components and other plan content, including the monitoring program. The responsible official must determine what information is the most accurate, reliable, and relevant with regard to the issues being considered. In some circumstances, the BASI would be that which is developed using the scientific method, which includes clearly stated questions, well designed investigations, and logically analyzed results, documented clearly and subjected to peer review. However, in other circumstances the BASI for the matter under consideration may be information from analyses of data obtained from a local area, or studies to address a specific question in one area. In other circumstances, the BASI could be the result of expert opinion, panel consensus, or observations, as long as the responsible official has a reasonable basis for relying on that information.

The Department recognizes often there is uncertainty in science, and

there may be differing or inconclusive scientific information. Different disciplines, including the social and economic sciences as well as ecologic science, may provide scientific information that is the best available for the issues being considered. Gathering a range of scientific information and acknowledging potential uncertainties is critical to adequately inform the responsible official as well as the public during the planning process.

The Agency already has a fundamental legal requirement to consider relevant factors, including the relevant scientific information, and explain the basis for its decisions. The Department included this section in the rule, with its explicit requirements for determining and documenting the use of the best available scientific information, to inform the planning process and to help to ensure a consistent approach across the National Forest System.

To respond to comments about the level of documentation for individual units, the requirements for documentation were changed from the proposed rule. The Department eliminated paragraphs (a), (b), and (c) of § 219.3 of the proposed rule, and replaced them with the requirement that the responsible official document how the best available scientific information was used to inform the assessment, the plan decision, and the monitoring program. Section 219.14(a)(4) requires that the plan decision document must document how the best available scientific information was used to inform planning, plan components, and other plan content, including the monitoring program. The remaining paragraph was modified to require the responsible official to document how the best available scientific information was used to inform the design of the monitoring program, rather than in every monitoring report, because the monitoring results are scientific information. In addition, the new documentation requirements call for the responsible official to explain the basis for the determination, and explain how the information was applied to the issues considered.

The Forest Service Directives System will contain further detail on how to document the use of the best available scientific information, including identifying the sources of data such as peer reviewed articles, scientific assessments, or other scientific information. In addition, the Forest Service Directives System will contain further detail on the Forest Services' information quality guidelines. Direction about science reviews may be found in Forest Service Handbook 1909.12—Land Management Planning, Chapter 40—Science and Sustainability.

The final rule is consistent with USDA policy that requires agencies to meet science quality standards when developing and reviewing scientific research information and disseminating it to the public. Also, the final rule is consistent with the recent Executive Order 13563 (2011) that states "when scientific or technological information is considered in policy decisions, the information should be subject to well-established scientific processes, including peer review where appropriate." Responsible officials will rely upon the USDA Office of the Chief Information Officer guidance to determine when the Office of Management and Budget (OMB) Information Quality Bulletin on Peer Review applies. USDA guidelines are found at *http://www.ocio.usda.gov/qi_guide/index.html.*

Comment: Weight of scientific information. Some respondents felt the proposed rule allowed science to be weighed more heavily than other relevant information. Some respondents felt the proposed rule allows decisions to be made based on politics or special interests rather than science. Some respondents felt the proposed rule requirement for the best available science to be taken into account was not strong enough, and suggested the rule require decisions to conform to the best science. Other respondents felt the proposed rule made use of science mandatory rather than discretionary.

Response: The Department never intended that the responsible official could have the discretion to disregard best available scientific information (BASI) in making a decision. To clarify the Department's intent, the final rule requires the responsible official to use the BASI to inform the planning process rather than take BASI into account. While the BASI must inform the planning process and plan components, it does not dictate what the decision must be: BASI may lead a responsible official to a range of possible options. There also may be competing scientific perspectives and uncertainty in the science. Furthermore, scientific information is one of the factors relevant to decisionmaking. Other factors include budget, legal authority, local and indigenous knowledge, Agency policies, public input, and the experience of land managers.

Comment: Funding for BASI. Some respondents felt the requirements to use the best available scientific information were going to be too financially burdensome. Other respondents suggest the term should be removed from the rule as it would only create delays and legal challenges.

Response: The Agency is already required to take relevant scientific information into account in decisionmaking. The Agency already has a fundamental legal requirement to consider relevant factors, including relevant scientific information, and explain the basis for its decisions.

This section is not intended to impose a higher standard for judicial review than the existing "arbitrary and capricious" standard. The requirements of this final rule section are also separate from those of the Council on Environmental Quality's NEPA regulations, (40 CFR 1502.22(b)), which in some circumstances require the responsible official to seek out missing or incomplete scientific information needed for an environmental impact statement, unless the costs of doing so are prohibitive. This final rule section does not change that requirement. The requirements in section 219.3 are focused on ensuring the responsible official uses the BASI that is already available to inform the planning process. Thus, while an assessment report or monitoring evaluation report may identify gaps or inconsistencies in data or scientific knowledge, the final rule does not impose the affirmative duty that the CEQ regulation applies to EISs—that is, to engage in new studies or develop new information, or to document that the costs of seeking new information are prohibitive.

Including this section in the rule, with its explicit requirements, for determining and documenting the use of the BASI to inform planning the planning process, will help to ensure a consistent approach across the National Forest System that will lead to more credible and supportable plan decisions.

Comment: Transparency of science used. Some respondents felt an addition of a requirement for the disclosure of what science was being used would enhance transparency.

Response: Section 219.3 of the final rule requires the responsible official to document how the BASI was used to inform the assessment, plan decision, and design of the monitoring program. Such documentation must: identify what information was determined to be the BASI, explain the basis for that determination, and explain how the information was applied to the issues considered. This requirement will provide both transparency and an explanation to the public as to how BASI was used by responsible officials to arrive at their decisions.

Comment: Risk, uncertainty, and the precautionary principle. A respondent

stated the words "risk" and "uncertainty" found throughout the preamble and DEIS are missing from the rule itself. The respondent felt the rule should include wording about risks and uncertainties and require techniques for assisting responsible officials in evaluating risks and uncertainties. Some respondents felt the rule should adopt the "precautionary principle" in planning on the NFS to account for uncertainty. One respondent also felt the wording "lack of full scientific certainty shall not be used as a reason for postponing a cost-effective measure to prevent environmental degradation" should be added.

Response: The Department concludes that the adaptive management framework of assessment, revision or amendment, and monitoring in this final rule provides a scientifically supported process for decisionmaking in the face of uncertainty and particularly under changing conditions. The intent of this framework is to create a responsive planning process and allows the Forest Service to adapt to changing conditions and improve management based on new information. Monitoring provides the feedback for the planning cycle by testing assumptions, tracking relevant conditions over time, and measuring management effectiveness.

The assessment report will document information needs relevant to the topics of the assessment and the best available scientific information that will be used to inform the planning process.

The science of risk management is rapidly evolving. To require specific techniques or methodologies would risk codifying approaches that may soon be outdated. The responsible official will inform the public about the risks and uncertainties in the environmental impact statements and environmental assessments for plans, plan revisions, and plan amendments.

Comment: Climate change and climate science. Some respondents felt the rule should require use of climate change science in decisionmaking. Others felt the rule should address and implement regulations for mitigation of climate change while others felt the rule should not address climate change.

Response: The rule sets forth an adaptive land management planning process informed by both a comprehensive assessment and the best available scientific information. Section 219.6(b)(3)–(4) requires responsible officials to identify and evaluate information on climate change and other stressors relevant to the plan area, along with a baseline assessment of carbon stocks, as a part of the assessment phase. Section 219.8(a)(1)(iv) requires climate change be taken into account when the responsible official is developing plan components for ecological sustainability. When providing for ecosystem services and multiple uses, the responsible official is required by § 219.10(a)(8) to consider climate change. Measureable changes to the plan area related to climate change and other stressors affecting the plan area are to be monitored under § 219.12(a)(5)(vi). Combined with the requirements of the Forest Service Climate Change Roadmap and Scorecard, these requirements will ensure that Forest Service land management planning addresses climate change and supports adaptive management to respond to new information and changing conditions.

Section 219.4—Requirements for Public Participation

This section of the final rule requires the responsible official to provide meaningful opportunities for public participation throughout the planning process. It gives direction for providing such opportunities, including for outreach, Tribal consultation, and coordination with other public planning efforts. The intent of this section is to emphasize the importance of active public engagement in planning and to provide direction for the responsible official to take an active, modern approach to getting public input, including recognition of the need for accessibility of the process and engagement of all publics, the responsibility for Tribal consultation, and engagement with other land managers as part of an all lands approach. The outcomes of public participation can include a greater understanding of interests underlying the issues, a shared understanding of the conditions on the plan area and in the broader landscape that provide the context for planning, the development of alternatives that can accommodate a wide range of interests, and the potential development of a shared vision for the plan area, as well as an understanding of how and why planning decisions are made. Engaging the public early and throughout the process is expected to lead to better decisionmaking and plans that have broader support and relevance.

Section 219.4—Response to Comments

Many comments on this section focused on the requirements for the kinds and level of participation opportunities and outreach, coordination with local and State governments and planning efforts, and Tribal consultation. This section was reorganized and new paragraph headings were assigned to increase clarity. Wording affirming that the Forest Service retains decisionmaking authority and responsibility for all decisions was moved from the definition of collaboration of the proposed rule to paragraph (a) of this section. The Department also listed State fish and wildlife agencies, and State foresters in paragraph § 219.4(a)(1)(iv) as illustrative examples of relevant State agencies.

The Department modified the wording about trust responsibilities in § 219.4(a)(2) that was designated at § 219.4(a)(5) of the proposed rule. The proposed rule said: the Department recognizes the Federal Government's trust responsibility for federally recognized Indian Tribes. The final rule says: the Department recognizes the Federal Government has certain trust responsibilities and a unique legal relationship with federally recognized Indian Tribes. This change was made to ensure accurate recognition of the relationship between the Federal Government and federally recognized Tribes.

The Department deleted the phrase, "to the extent practicable and appropriate," from the end of paragraph § 219.4(b) for coordination with other public planning efforts, in response to public comment. The change is intended to make clear that the requirements for coordination with other public planning efforts have not been reduced from previous rules. However, this change is not intended to require the Agency's planning efforts to tier to, or match the timing of other public planning efforts. These changes are not changes in requirements, they are clarifications.

Comment: Specific requirements for public engagement. Some respondents felt that the rule should allow responsible officials to have the discretion to determine public outreach methods, while others felt the rule should contain specific method and process requirements for public engagement because vague requirements could result in courts second-guessing whether the public participation was sufficient. Others felt the public participation opportunities held during planning need to be flexible and accommodate the people living and working in the area. Others requested specific recreation clubs and organizations be added to proposed § 219.4(a)(2). A respondent felt the responsible official should be required to identify other non-traditional means

of engagement and to identify in advance the participation of specific populations in each area with historical and traditional connections to the land, including forestry workers, their associations, and specific communities who retain or wish to retain historic connections to the land. Some respondents felt individuals and organizations engaged in forest planning should be limited to either economic stakeholders or those with an existing interest in forest management as the Forest Service cannot make individuals or groups with no interest or economic stake in national forests participate in forest planning, regardless of the effort the Agency puts into targeted scoping.

Response: The rule requires the responsible official to engage and encourage participation by a diverse array of people and communities throughout the planning process. This includes those interested at the local, regional, and national levels and covers all groups and organizations that are interested in the land management planning process. The Department recognizes the need to engage a full range of interests and individuals in the planning process. The national forests and grasslands belong to all Americans and not just those who have economic or previously expressed interest. The Department concluded it was important for the final rule to recognize that opportunities for public participation in the planning process must be fair and accessible, while recognizing and taking into account the diverse interests, responsibilities, and jurisdictions of interested and affected parties. The final rule does not require participation from any specific group. The rule also allows flexibility in the methods of offering opportunities for engagement, recognizing that the best way to engage will vary at different times and in different places. The responsible official has the discretion to determine the scope, timing, and methods for participation opportunities necessary to address local, regional, and national needs, while meeting the requirements of § 219.4.

The planning procedures established for land management planning in the Forest Service Directives System will also provide further direction to ensure consistent implementation of the requirements of the final rule.

Comment: Clarification on collaborative process. Some respondents felt the rule should clarify when a collaborative process would or would not be "feasible and appropriate." A respondent felt the rule should ensure public participation occurs when forest plans are revised and amended. Some respondents felt their local Forest Service office is already collaborating with the public and that the proposed rule would discourage the unit from continuing with methods already working locally.

Response: This final rule contains a balanced approach that requires the responsible official to engage a diverse array of people and communities throughout the planning process. Participation opportunities must be provided throughout all stages of the land management planning process, including during plan revision and amendment.

The CEQ publication *Collaboration in NEPA—A Handbook for NEPA Practitioners* at: *http://ceq.hss.doe.gov/ntf/Collaboration_in_NEPA_Oct_2007.pdf,* describes a spectrum of engagement, including the categories of inform, consult, involve, and collaborate. Each of these categories is associated with a set of tools, from traditional activities such as notice and comment on the inform end of the spectrum, to consensus building, or a Federal advisory committee on the collaborative end of the spectrum. Because the term "collaboration" is often associated with only those activities on one end of the public engagement spectrum, the Department chose to retain the term "public participation" in the final rule to make clear that the full spectrum of tools for public engagement can be used in the planning process. Every planning process will involve traditional scoping and public comment; in addition, the responsible official will determine the combination of additional public participation strategies that would best engage a diverse set of people and communities in the planning process.

The final rule absolutely provides the flexibility to support the use of already working processes, including existing collaborative processes. Because the make-up and dynamics of the communities surrounding each planning area differ, and because the level of interest in decisionmaking may vary, based on the scope and potential impact of the decision being contemplated, the responsible official needs the flexibility to select the public participation methods that would best meet the needs of interested people and communities. The wording "feasible and appropriate" provides the responsible official the flexibility needed to develop effective participation opportunities, including using existing opportunities for collaboration.

Planning procedures established in the Forest Service Directives System will provide further guidance and clarification for how the public participation requirements of the final rule will be implemented.

Comment: Time and cost of public involvement. Some respondents felt the proposed public participation requirements are cumbersome and unrealistic in regards to time and cost and the ability for individuals to fully participate. Others felt the public participation requirements would not result in a more efficient planning process.

Response: The final rule directs the responsible official to take the accessibility of the process, opportunities, and information into account when designing opportunities for public participation, precisely because individuals may vary in their ability to engage, including in how much time and money they have to spend on participating in the process. Likewise, the final rule directs the responsible official to consider the cost, time, and available staffing when developing opportunities for public participation that meet needs and constraints specific to the plan area. This is to ensure that the process is feasible and efficient. In addition, § 219.1(g) requires that the planning process be within the authority of the Forest Service and the fiscal capability of the unit.

However, the rule does place a strong emphasis on developing opportunities early and throughout the planning process, with costs of planning projected to be redirected toward collaboration, assessment, and monitoring activities and away from development and analysis of alternatives, as compared to the 1982 procedures. The public participation requirements are expected to improve plans and increase planning efficiency in a variety of ways. Collaborative efforts during the early phases of planning are expected to result in improved analysis and decisionmaking efficiency during the latter stages of planning; lead to improved capacity to reduce uncertainty by gathering, verifying, and integrating information from a variety of sources; reduce the need for large numbers of plan alternatives and time needed for plan revisions; potentially offset or reduce monitoring costs as a result of collaboration during monitoring; improve perceptions regarding legitimacy of plans and the planning process; increase trust in the Agency, and potentially reduce the costs of litigation as a result of receiving public input before developing and finalizing decisions. Overall, it is the Department's

view that investment in providing opportunities for public engagement will lead to stronger and more effective and relevant plans.

Comment: Undocumented knowledge. A respondent felt the planning process should take into account other forms of knowledge besides written documentation, and this knowledge should be shared with all interests and individuals throughout the planning process.

Response: The Department recognizes that other forms of information besides written documentation, such as local and indigenous knowledge and public experiences, should also be taken into account. Opportunities for the public to provide information during the assessment phase will help the responsible official to capture other forms of knowledge, and to reflect that information in the assessment report that will be available to the public. This section of the final rule requires the responsible official to encourage public participation, thus sharing knowledge, ideas, and resources. In addition, paragraph (a)(3) of this section requires the responsible official to request information about native knowledge, land ethics, cultural issues, and sacred and culturally significant sites.

Comment: Participation requirements accountability. Some respondents felt the rule should contain measures ensuring the responsible officials meet the public participation requirements.

Response: To ensure accountability in implementation for all of the requirements in the final rule, the Department added § 219.2(b)(5) requiring the Chief to administer a national oversight process for accountability and consistency of NFS land management planning. In addition, the planning procedures established in the Forest Service Directives System will provide further guidance and clarification for how the public participation requirements of the final rule will be implemented.

Comment: Decisionmaking authority. Some respondents felt the rule must disclose the Forest Service retains full decisionmaking authority.

Response: While § 219.4 of the rule commits the Agency to public participation requirements and encourages collaboration, by law the Forest Service must retain final decisionmaking authority and responsibility throughout the planning process. Paragraph (a) of this section has been modified to include the sentence "The Forest Service retains decisionmaking authority and responsibility for all decisions throughout the process," which was previously in the definition for collaboration in the proposed rule.

Comment: Specific requirements for youth, low-income, and minority populations. Some respondents supported requirements to engage youth, low-income and minority populations, and advocated including additional requirements. One respondent felt that references to youth, low-income, and minority populations should be removed. A respondent felt the rule should integrate elements related to equitable recreation access for youth, low-income, and minority populations into the assessment, planning, and monitoring elements of the rule.

Response: Many people discussed the need for the Forest Service to make a stronger effort to engage groups and communities that traditionally have been underrepresented in land management planning. This is reflected in the requirement that responsible officials encourage the participation of youth, low-income populations, and minority populations in the planning process and in the requirements to be proactive and use contemporary tools to reach out to the public and consider the accessibility of the process to interested groups and individuals. The Department recognizes the need to engage a full range of interests and individuals in the planning process and the responsibility to promote environmental justice. To encourage wide-ranging participation, the final rule retains the requirement for the responsible official to seek participation opportunities for traditionally underrepresented groups like youth, low-income populations, and minority populations.

The Department added requirements in §§ 219.8 and 10 to take into account opportunities to connect people with nature when developing plan components to contribute to social and economic sustainability and for multiple uses, including recreation, in addition to the requirements for outreach to youth, low-income, and minority populations included in this section. Specific issues regarding recreation access on a unit will be addressed at the local level during the planning process.

Comment: Predominance of local or national input. Some respondents felt the proposed § 219.4 did not place enough emphasis on input from the local community, while others felt the proposed collaboration process would result in too much input from local interests and groups. Other respondents felt the public participation process needs to be all-inclusive, including at the local, State, and national levels and should be directed at the general public and not focus on participation from specific segments of the population. Other respondents felt the proposed rule only provides participation opportunities for State and local governments. A respondent felt comments or recommendations by a local Board of Supervisors should be given equal consideration as to those comments received from State and Federal agencies.

Response: Section 219.4(a)(1)(iv) of the final rule clarifies the responsible official's duty for outreach to other government agencies to participate in planning for NFS lands, including State fish and wildlife agencies, State foresters, and other relevant State agencies, local governments including counties, and other Federal agencies. However, a successful planning process must be inclusive in order to adequately reflect the range of values, needs, and preferences of society. All members of the public would be provided opportunities to participate in the planning process. Section 219.4(a) of the final rule lists specific points during the planning process when opportunities for public participation would be provided. To meet these requirements, the responsible official must be proactive in considering who may be interested in the plan, those who might be affected by the plan or a change to the plan, and how to encourage various constituents and entities to engage. Responsible officials will encourage participation by interested individuals and entities, including those interested at the local, regional, and national levels.

Comment: Coordination with State and local governments. Some respondents felt the proposed rule downplayed requirements to coordinate with State and local governments and that public participation is elevated over coordination. Other respondents felt State wildlife agencies should specifically be coordinated with when designing and implementing plans, on-the-ground management activities, monitoring, and survey design. Some respondents felt the rule should use the wording from § 219.7 of the 1982 planning rule regarding coordination with State and local governments. Others felt wording from Alternative D of the DEIS should be included. Some respondents felt forest plans should be written in partnership with the States in which the national forest or grassland is located. A respondent supported the review of county planning and land use policies and documentation of the review in the draft EIS as stated in proposed § 219.4(b)(3). Several

respondents noted the 1982 planning rule at § 219.7(b) requires county governments to be given direct notice of forest plan revisions and oppose the proposed elimination of the requirement in the proposed rule. A respondent stated input from local governments is required by NFMA's mandate for coordination with local agencies that acknowledges the contributions and responsibilities unique to local agencies, including planning responsibilities for the private lands that fall under the "all lands" umbrella.

Response: Many of the coordination requirements of the 1982 planning rule have been carried forward into § 219.4(b)(1) and (2) of the final rule. Section 219.4(b)(3) clarifies requirements for coordination efforts.

Under § 219.4(a), the final rule requires the responsible official to encourage participation by other Federal agencies, Tribes, States, counties, and local governments, including State fish and wildlife agencies, State foresters and other relevant State agencies. The final rule also requires the responsible official to encourage federally recognized Tribes, States, counties, and other local governments to seek cooperating agency status in the NEPA process for planning, where appropriate, and makes clear that the responsible official may participate in their planning efforts.

Under § 219.4(b) of the final rule, the responsible official must coordinate planning efforts with the equivalent and related planning efforts of federally recognized Indian Tribes, Alaska Native Corporations, other Federal agencies, and State and local governments. The Department deleted the phrase, "to the extent practicable and appropriate," from the end of paragraph § 219.4(b), in response to public comment. This change is not intended to require the Agency's planning efforts to tier to, or match the timing of other public planning efforts. It was made to make clear that the requirements for coordination with other public planning efforts have not been reduced from previous rules.

The requirement for coordination from the 1982 rule to identify and consider other information is found in § 219.6(a) of the final rule. Section 219.6(a) of the final rule requires consideration of relevant information in assessments of other governmental or non-governmental assessments, plans, monitoring evaluation reports, and studies. The final rule does not adopt the coordination requirements of Alternative D of the DEIS because the coordination requirements are part of the species viability requirements of Alternative D. The final rule does require the responsible official to coordinate to the extent practicable with other Federal, State, Tribal, and private land managers having management authority over lands relevant to a population of species of conservation concern (§ 219.9(b)(2)(ii)). To discuss the role of the Forest Service unit in the broader landscape, final rule §§ 219.4(a)(1), 219.6(a), 219.7(c)(1), and 219.12(a) require coordination with other levels and deputy areas within the Agency as well as the public, appropriate Federal agencies, States, local governments, and other entities throughout the planning process. The final rule recognizes that participants have different roles, responsibilities, and jurisdictions, which the responsible official will take into account in designing opportunities for participation. The final rule does not adopt the requirement of the 1982 rule to meet with a designated State official and representatives of Federal agencies and local governments because people can often collaborate together without a face-to-face conference. The Department expects responsible officials to effectively engage States, Tribes, and local officials and other representatives in collaborative planning processes.

Comment: Commitments to and consistency with local plans. Some respondents felt the rule needs a stronger commitment to local government plans, including statewide forest assessments and resource strategies. Some respondents felt proposed § 219.4(b)(3) wording "nor will the responsible official conform management to meet non-Forest Service objectives or policies" should be removed because it may contradict with the purpose of coordinating with local government. Others felt the primary goal of coordination should be achieving consistency between Federal and local plans within the legal mandates applicable to all entities. Some respondents felt the analysis must document there is no superior alternative to a proposed plan or action as required by NEPA.

Response: When revising plans or developing new plans, under § 219.4(b) the responsible official must review the existing planning and land use policies of State and local governments, other Federal agencies, and federally recognized Tribes and Alaska Native Corporations, where relevant to the plan area, and document the results of the review in the draft EIS. Section 219.4(b) requires that review to consider a number of things, including opportunities for the unit plan to contribute to joint objectives and opportunities to resolve or reduce conflicts where they exist. The review would consider the objectives of federally recognized Indian Tribes, and other Federal, State, and local governments, as expressed in their plans and policies, and would assess the compatibility and interrelated impacts of these plans and policies. In addition, responsible officials in the assessment phase are required to identify and consider relevant existing information, which may include relevant neighboring land management plans and local knowledge. This information may include State forest assessments and strategies, ecoregional assessments, nongovernmental reports, State comprehensive outdoor recreation plans, community wildfire protection plans, public transportation plans, and State wildlife action plans, among others.

However, plans are not required to be consistent with State forest assessments or strategies or plans of State and local governments under the final rule. The Forest Service must develop its own assessment and plans related to the conditions of the specific planning unit and make decisions based on Federal laws and considerations that may be broader than the State or local plans. Requiring land management plans to be consistent with local government plans would not allow the flexibility needed to address the diverse management needs on NFS lands and could hamper the Agency's ability to address regional and national interests on Federal lands. In the event of conflict with Agency planning objectives, consideration of alternatives for resolution within the context of achieving NFS goals or objectives for the unit would be explored. The final rule does not repeat legal requirements found in public law, such as NEPA and NFMA, but § 219.1(f) would require plans to comply with all applicable laws and regulations.

Comment: Cooperating agencies for unit plan development. A respondent felt the rule should identify State, Tribal, and local governments as cooperating agencies. Other respondents asked why a Tribe would request cooperating agency status and what the benefit would be. Another respondent felt the role of State and local governments is compromised, because the propose rule allows a responsible official to decide when cooperating agency status would be allowed. A respondent noted the Forest Service should be willing to share information and not impose cost-prohibitive barriers to such information, and the proposed rule does not allow cooperating agency status for State and local governments,

because the process folds them into the public at large. Several organizations commented on the preferred alternative that the final rule should require responsible officials to grant cooperating agency status under NEPA to entities if federally recognized Tribes, States, counties, or local governments appropriately apply for such status.

Response: The responsible official will encourage federally recognized Tribes, States, counties, and other local governments to seek cooperating agency status where appropriate. The final rule does not preclude any eligible party from seeking cooperating agency status; rather, it provides direction to Forest Service responsible officials to encourage such engagement where appropriate. Cooperating agency status under NEPA is determined under the Council of Environmental Quality (CEQ) requirements for cooperating status (40 CFR 1501.6). Further guidance may be found at *http://www.fs.fed.us/emc/nepa/index.htm*. The final rule does not affect that process. For federally recognized Tribes, cooperating agency status does not replace or supersede the trust responsibilities and requirements for consultation also recognized and included in the final rule. Any request for cooperating agency status will be considered pursuant to the CEQ requirements and Agency policy.

Comment: Tribal consultation. Some respondents felt that Alaska Native Corporations should not be given the same status as federally recognized Indian Tribes, while another respondent felt that the final rule should recognize and provide for consultation with affected Alaska Native Corporations and Tribal organizations. Several Tribes and Alaska Native Corporations are concerned about keeping information confidential to protect sites from vandalism.

Response: The final rule acknowledges the Federal Government's unique obligations and responsibilities to Indian Tribes and Alaska Native Corporations in the planning process. The statute, 25 U.S.C. 450 note, requires that Federal agencies consult with Alaska Native Corporations on the same basis as Indian Tribes under Executive Order 13175. While the final rule requires consultation and participation opportunities for Alaska Native Corporations, the Department engages in a government-to-government relationship only with federally recognized Indian Tribes, consistent with Executive Order 13175. Responsible officials will protect confidentiality regarding information given by Tribes in the planning process and may enter into agreements to do so.

Comment: Coordination with Tribal land management programs. Some respondents felt the responsible official should actively engage in coordination with Tribal land management programs and that the proposed rule weakens requirements to coordinate planning with Tribes. One respondent requested that the Tribal coordination provisions from the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712(b)) be included in the final rule.

Response: The final rule provides participation, consultation, and coordination opportunities for Tribes during the land management planning process, under § 219.4. This section also states at § 219.4(b) that the responsible official shall coordinate land management planning with the equivalent and related planning efforts of federally recognized Indian Tribes and Alaska Native Corporations. A citation for 43 U.S.C. 1712(b) has been added to the final rule at § 219.4(b)(2). Participation in a collaborative process would be voluntary and would supplement, not replace consultation.

Comment: Government-to-government relationship. One respondent felt the proposed rule does not go far enough in identifying the unique government-to-government relationship between Tribes and the Forest Service.

Response: The Department recognizes the unique government-to-government relationship that the Federal Government has with Tribes, and has engaged Tribes throughout the rulemaking process. The final rule includes requirements for engaging Tribes during the land management planning process. At § 219.4(a)(2) the final rule states that the responsible official shall honor the government-to-government relationship between federally recognized Indian Tribes and the Federal Government, in accordance with Executive Order 13175. Additionally, § 219.4 requires that the responsible official provide opportunities for participation and consultation for federally recognized Indian Tribes and Alaska Native Corporations.

Section 219.5—Planning Framework

This section provides an overview of the framework for land management planning, and identifies what occurs during each phase. It also includes the requirement for the establishment of an interdisciplinary team for planning. This framework reflects key themes heard from the public, as well as experience gained through the Agency's 30-year history with land management planning.

The framework requires a three-part learning and planning cycle: (1) Assessment; (2) plan development, plan revision, or plan amendment; and (3) monitoring. This framework is science-based (§ 219.3), and provides a blueprint for an open and participatory land management process (§§ 219.4 and 219.16). It is intended to create a better understanding of the landscape-scale context for management and support an integrated and holistic approach to management that recognizes the interdependence of ecological resources and processes, and of social, ecological, and economic systems. The framework creates a structure within which land managers and partners will work together to understand what is happening on the land. It is intended to establish a responsive process that would allow the Agency to adapt management to changing conditions and improve management based on new information and monitoring, using narrower, more frequent amendments to keep plans current between revisions.

Section 219.5—Response to Comments

Many comments on this section focused on the need for more clarity in the framework. The Department made changes to § 219.5(a)(1) to describe the assessment and emphasize that the assessment process is intended to be rapid, and use existing information related to the land management plan within the context of the broader landscape. The Department removed the discussion about the preliminary need to change the plan from paragraph (a)(1) because the discussion has been removed from the assessment (§ 219.6) and discussed in paragraph (a)(2) of this section and in § 219.7. The Department removed the introductory text of paragraph (a)(2) of this section because it was redundant to paragraph (a)(2)(i) of this section and to § 219.7(b). Section 219.5(a)(2)(ii) was slightly modified to clarify that the first step to amend a plan is to identify a preliminary need to change the plan. Additional edits were made for clarity. The changes to this section are not changes in requirements, they are just clarifications.

Comment: Planning framework. Some respondents felt more clarity was needed on the three phases of the framework (assessment, development, and monitoring). Further clarity was sought on how the phases are interrelated.

Response: This section was included to provide clarity with regard to each phase of the framework and how they are interrelated. Detailed requirements and relationships for each phase are provided in other sections of the rule. In

addition to the descriptions of what occurs during each phase provided in this section, changes were made to §§ 219.6, 219.7 and 219.12 to make clear that information from each phase should be used to inform each of the other phases. In § 219.6, assessments are required for new plan development and plan revision, and a new list of topics for the assessment was included to more closely link the assessment requirements to the requirements for plan components and other plan content. The responsible official must identify and consider relevant information contained in monitoring reports during the assessment phase. These monitoring evaluation reports are developed in the monitoring phase as required in § 219.12(d), which requires that they be used to inform adaptive management. Section 219.7 requires the responsible official to review relevant information from the assessment and monitoring to identify a preliminary need for change and to inform the development of plan components and other plan content, including the monitoring program. In this way, the framework builds on information gathered and developed during each phase of the planning process and supports adaptive management for informed and efficient planning.

Comment: Resource exclusion. Some respondents felt the proposed rule allows too much discretion to the responsible official to exclude resources or uses of interest under the three phases of the planning framework.

Response: There are numerous opportunities throughout the process for the public to identify resources and uses that are of interest to them, along with information about those resources or uses relevant to the plan area. If a resource or use is identified as of interest, it will be considered during of the planning process. The responsible official must meet all the requirements contained in the final rule, including the requirement to identify resources present in the plan area and consider them when developing plan components for §§ 219.8 through 219.11, including for ecological sustainability, diversity, and multiple use.

Comment: Composition of planning interdisciplinary teams. Several respondents felt the rule should specify the composition of the interdisciplinary teams required under proposed § 219.5(b).

Response: The Department concluded that the responsible official should have the discretion to determine the disciplines, or areas of expertise, to be represented on the Agency interdisciplinary team for preparation of assessments; new plans, plan amendments, or plan revisions; and plan monitoring programs. Because planning efforts are based on an identified need for change, it would not be appropriate to require the same disciplines to be represented on every interdisciplinary team. Also, individual team members often have broad areas of expertise and may represent multiple disciplines.

Section 219.6—Assessments

This section sets out both process and content requirements for assessments. In the assessment phase, responsible officials will rapidly identify and evaluate relevant and existing information to provide a solid base of information and context for plan decisionmaking, within the context of the broader landscape. The final rule identifies and provides examples of sources of information to which the responsible official should refer, requires coordination and participation opportunities, and requires documentation of the assessment in a report to be made available to the public. This phase is intended to be rapid, and changes were made to the final rule to improve the efficiency of the assessment process. The Department expects the assessment required by the final rule will take about 6 months to complete.

The content of assessments will be used to inform the development of plan components and other plan content, including the monitoring questions, and to provide a feedback loop. The final rule narrows and clarifies the requirements for the content of plan assessments, to increase efficiency and provide a clearer link to the requirements for plan components and other plan content in the other sections of the final rule. During the assessment phase, the public will have the opportunity to bring forward relevant information. Gathering and evaluating existing, relevant information will help both the responsible official and the public form a clear base of information related to management issues and decisions that will be made later in the planning process.

Section 219.6—Response to Comments

Many comments on this section focused on concerns about the assessment phase in the proposed rule being too open ended, lengthy and costly, and/or not closely enough linked to the requirements for plan components and monitoring in the other phases of the framework. The Department determined that these concerns were valid, and made a number of changes to this section in response. The Department reorganized the section to clarify the process and direction for assessments.

In the introductory paragraph, the Department removed the description of what an assessment is, and provided a cross-reference to description of the assessment in § 219.5(a)(1). This change was made to avoid redundancy, and is not a change in requirements. Changes to the description of the assessment in § 219.5(a)(1) were made to focus on the use of existing information in a rapid process. This change reflects the intent for this phase as stated in the preamble to the proposed rule, and makes that intent clear in the final rule. Additional changes to reflect this focus were made throughout this section. These changes reflect the preamble discussion of the proposed rule about rapid assessments; therefore, these changes are clarifications based on public comments to make the assessment more efficient.

In paragraph (a) of the final rule the Department made several changes, including:

(1) Removed specific requirements for formal notification and encouragement of various parties to participate in the assessment (designated at § 219.6(a)(1) and (a)(2) of the proposed rule); these specific requirements were removed in response to public comments. Requirements for public participation and notification during this phase are still present in §§ 219.4 and 219.16. This is a change in requirements that is based on public comments to make the assessment more efficient.

(2) Moved the type of information to identify and consider from paragraph (b)(2) of this section of the proposed rule to paragraph (a)(1) in this section. The Department added public transportation plans and State wildlife data to the list of example documents to consider contained in paragraph (a)(1). The Department further clarified in this paragraph that relevant local knowledge will be considered if publicly available or voluntarily provided. These additions are not changes in requirements as they clarify the Department's intent.

(3) Changed the description of the report at paragraph (a)(3) from a set of reports to a single assessment report; changed discussion of additional information needs to clarify that they should be noted in the assessment report, but that new information need not be developed during the assessment phase; and changed the requirement from documenting how science was "taken into account" to how the best available scientific information was "used to inform" the assessment for

consistency with § 219.3. These changes reflect public comments on making the assessment phase more efficient, as well as public comments on § 219.3.

(4) Removed the requirement for the assessment to identify the need to change the plan from this section and added that requirement as an early step in the planning process in § 219.7. The Department moved the requirement to § 219.7 because after reading the public comments it was decided that identifying a need to change the plan in the assessment phase may cause confusion with the NEPA process. The planning rule continues to emphasize a "need for change" approach to planning but this now begins with a preliminary identification of the need to change the plan identified in the beginning of plan development (§ 219.7) within the formal NEPA process.

Paragraph (b) describes the content of assessments for plan development or plan revision. The Department added a specific listing of 15 topics that would be identified and evaluated relevant to the plan area, and removed the requirement in the proposed rule that the assessment report identify and evaluate information related to the substantive sections of the plan (§§ 219.7, 219.8, 219.9, 219.10, and 219.11). This change was made in response to comments that the assessment phase needed to be both more efficient and more narrowly and specifically focused on the information needed to form a basis for developing plan components and other plan content. These changes represent a change in requirements. Changes made to § 219.7 provide additional clarity to link the two phases.

One term in the list of 15 items may be unfamiliar to the reader: baseline assessment of carbon stocks. The final rule requires that the responsible official use existing information to do a baseline assessment of carbon stocks. Carbon stocks are the amount of carbon stored in the ecosystem, in living biomass, soil, dead wood, and litter. This requirement was included in response to public comments to ensure that information about baseline carbon stocks is identified and evaluated before plan revision or development, and to link this phase to the requirements of the Forest Service Climate Change Roadmap and Scorecard. The Department's expectation is that this information would be generated via implementation of the Roadmap and Scorecard prior to planning efforts on a unit, and that the assessment phase would use that information to meet the direction in § 219.6(b)(4). The Forest Service has developed a National Roadmap and Performance Scorecard for measuring progress to achieve USDA strategic goals (USDA Forest Service 2010d, 2010j). The roadmap describes the Agency's strategy to address climate change and the scorecard is an annual reporting mechanism to check the progress of each NFS unit.

The requirements for the assessment to identify distinctive roles and contributions and potential monitoring questions previously included in paragraph (b) were removed from this section of the rule because they implied there would be decisions in the assessment phase that should be made as part of the plan decision. Both requirements are still present in other sections of the final rule; therefore, the removal of these requirements from this section of the rule is a minor change.

At § 219.6(c) the Department removed requirements for plan amendments that were consolidated with requirements for plan amendments in § 219.13(b)(1) for clarity and to avoid duplication. In addition, the Department changed the word "issue" to "topic" to avoid confusion with the term "issues" as used in the NEPA process. These changes are not changes in requirements, they are just clarifications.

Comment: Assessment process. Some respondents felt the proposed assessment process should be removed from the rule as it is an added and potentially costly step to the planning process. They felt it would be more efficient and effective if assessments used to justify an amendment or plan revision were combined into one document for the proposed amendment or revision. They also felt the rule should provide more guidance and parameters for the decisionmaking occurring along with assessment reports. Other respondents felt the proposed rule requirements were vague on the nature of assessments and more standards or guidelines for determining proper time frames, content, and need for assessment is necessary. Others were concerned that the assessments should be more comprehensive, that too much discretion was given to the responsible official to determine what to include in the assessment, and the responsible official should be required to use, not just consider, the information.

Response: Section 219.6 of the final rule changes the requirements for assessments. A single document identifying and evaluating key information for a plan revision or amendment will serve as an important source to set the stage for planning in both the development of the plan and in the evaluation of environmental effects through an environmental impact statement.

The final rule stresses the assessment as an information gathering and evaluation process specifically linked to the development of plan components and other plan content, in the context of the broader landscape. The final rule requires information about the list of topics in § 219.6(b) to be identified and evaluated in the assessment. The inclusion of this list as opposed to the broader direction included in the proposed rule is intended to make the process both more efficient, and more clearly focused on the specific information needed to inform the development of plan components and other plan content as required by other sections of the final rule.

The requirement of the proposed rule to find a "need to change" during the assessment phase of planning has been removed to clarify that the assessment is not a decisionmaking process and does not require a NEPA document to be prepared. Changes to § 219.7 clarify that the responsible official must review material gathered during the assessment to identify a preliminary need to change the existing plan and to inform the development of the plan components and other plan content. The information may be used and referenced in the planning process, including environmental documentation under NEPA. However, the assessment report is not a decision document.

The responsible official is required to provide public participation opportunities to all interested parties during the assessment process, and must provide notice of such opportunities, as well as the availability of the assessment report. The public will have a formal opportunity to comment on information derived from the assessment later in the NEPA process of the plan development, amendment, or revision.

The Department decided to retain the flexibility provided in the proposed rule for the responsible official to determine when an assessment prior to plan amendment is needed, along with the scope, scale, process, and content for plan amendments, in order to keep the amendment process flexible. Amendments can be broad or they can be narrow and focused only on a subset, or even on a single one, of the topics identified in the list of 15 in the final rule, or on something not on the list. Or the amendment could take place while the information in the assessment done for the plan revision or initial development is still up-to-date, such that a new assessment would not be needed. The circumstances and

considerations for when a plan amendment assessment should occur are too variable to specify in the final rule.

Comment: Use of existing information. Some respondents felt the rule should clarify that the responsible official need only consider existing information during the assessment phase. The concern raised was that if a responsible official had to develop new information such as new scientific studies to fill gaps in the existing science, the planning process would be further delayed. Others expressed that limiting the assessment to rapid evaluation of existing information may result in lack of input from the public or actually be of little use when the Forest Service has very little information.

Response: The Department agrees the assessment phase needs to be efficient and effective. The Department focused the final rule on rapidly gathering and evaluating existing information on the topics identified in paragraph (b) of the final rule. The intent is for the responsible official to develop in the assessment phase a clear understanding of what is known about the plan area, in the context of the broader landscape, in order to provide a solid context for decision-making required during the planning phase. The Forest Service will use relevant existing information from a variety of sources, both internal to the Agency and from external sources. The responsible official is required to provide public participation opportunities to all interested parties during the assessment process. The Department concludes that engaging the public to inform the assessment report will help the responsible official and the interested public to develop a common base of information to use in the planning phase, increasing the legitimacy and integrity of future decisions.

Comment: Additional assessment considerations. Some respondents noted reasonably foreseeable conditions, stressors, and opportunities (for example forecasts for continued urbanization and ecological changes resulting from climate change) need to be considered when measuring present conditions, stressors, and opportunities. The respondents implied this information should be calculated and considered during the assessment phase of land management planning. Still others indicated there should be requirements for water quality, minerals, historic, social, economic, and other resources. Others mentioned the responsible official should be required to accept material submitted by universities, and should consider best available science.

Response: The list in § 219.6(b) includes the topics identified in these comments. The Department accepts that the list included in the final rule represents a focused set of topics relevant to the development of plan components and other plan content required in other sections of the final rule. The final rule requires that the best available scientific information be used to inform all phases of the planning process. Documents submitted by universities would be accepted by the Agency and considered as part of the assessment.

Comment: Annual regional evaluations. Some respondents indicated the proposed assessment process needs to provide for regular over-arching investigations of potential need to change issues above the individual forest level. Some suggested the final rule should provide for annual evaluations by each Forest Service region for developing information affecting broader-scale factors and how the information may indicate a need to initiate forest plan revisions or amendments.

Response: The final rule does not require annual evaluations of monitoring results by each region or for the broader-scale monitoring strategy. The three-part planning cycle of assessments, planning, and monitoring will provide a framework to identify changing conditions and respond with adaptive management. Broader-scale monitoring will help to identify and track changing conditions beyond the individual forest level. The final rule requires consideration of information from both the broader and plan scales of monitoring. This information would be described in the biennial plan monitoring report for each unit if applicable to plan area. Annual investigations and review, in addition to what is provided for in the rule, would be procedurally difficult and was deemed not necessary.

Comment: Assessments versus monitoring. Some respondents remarked that the rule needs to state the Agency cannot rely on one-time assessments in lieu of monitoring data.

Response: The Department does not intend for assessments to replace monitoring. The final rule requires monitoring and biennial monitoring reports. Results from monitoring will be considered when developing an assessment and during the planning phase, just as the information gathered during the assessment phase will inform the planning phase, including development of the monitoring program.

Comment: Assessments and performance. Some respondents pointed out that the rule should link the assessment process with the Agency's integrated management reviews to assess performance in implementation of plan priorities.

Response: While management reviews can be a tool to assess plan progress toward meeting the intended results, the final rule does not require management review be linked with the assessment process. Management reviews are part of the management process for all mission areas, and are broader in scope, looking at many issues. The final rule is limited in scope to the planning process to develop, amend, or revise plans.

Comment: Notification of scientists. Some respondents stated the proposed rule's requirement to encourage and notify scientists to participate in the process was unwieldy.

Response: The detailed notification requirements previously included in this section have been removed in order to make the process more efficient and clearer. However, the final rule still requires that the responsible official coordinate with Forest Service Research and Development, identify and evaluate information from relevant scientific studies and reports, provide participation opportunities to the public, and use best available scientific information to inform the planning process.

Comment: Public comment and participation on assessment reports. Some respondents felt the rule should provide the public with the opportunity to review, comment, and provide additional information during the assessment phase. Other respondents felt the proposed rule was not clear as to what role the public would play in determining the scope of the assessment. The desire was also expressed for the opportunity to appeal the development or use of the assessment report.

Response: The rule requires the responsible official to provide opportunities for the public to participate in and provide information for the assessment process. For a new plan or plan revision, the final rule specifies the minimum scope of the assessment. For a plan amendment assessment, the need for and scope of the assessment will be determined by the responsible official based on the circumstances. The assessment is an informational document, not a decision document; therefore, a formal comment period is not required. As such, an opportunity to appeal or object to an assessment report is not required by the final rule. Other opportunities for

formal comment and objection are provided in the rule for plan decisions.

Comment: Distinctive roles and contributions. Some respondents felt the requirement for assessments to identify "distinctive roles and contributions of the unit within the broader landscape" should be retained; while others felt it should be removed.

Response: The final removes this requirement from the assessment as it implies a decision that should be made when approving the distinctive roles and contributions of the unit as part of the other plan content (§ 219.7(f)). It is retained in the requirement for other plan content in § 219.7 of the final rule.

Comment: Assessments and plan components. A respondent suggested assessments should include development of plan components to meet the substantive requirements of other rule provisions such as water quality standards.

Response: Assessments do not develop plan components, but only gather and evaluate existing information that can be used later in the development of plan components.

Comment: Information gaps or uncertainties. Some respondents declared the rule should require a component in the assessment identifying information gaps or uncertainties.

Response: Section 219.6(a)(3) of the final rule requires the assessment to document in the report information needs related to the list of topics in paragraph (b) as part of the assessment report. Adding a requirement for the responsible official to document all information gaps or uncertainties could become burdensome and was inconsistent with the rapid evaluation of existing information.

Comment: Cumulative effects disclosure. Some respondents stated proposed § 219.6(b)(3) should specifically address the need to document cumulative effects to the condition of lands, water, and watersheds.

Response: The final rule does not add a cumulative effects requirement to the assessment. The assessment identifies and evaluates information on conditions and trends related to the land management plan. This will include influences beyond the plan area and influences created by the conditions and trends in the plan area. Cumulative effects analysis is part of the NEPA process and disclosed in the environmental documentation for planning or project decisionmaking.

Section 219.7—Plan Development or Plan Revision

This section sets out requirements for how to develop a new plan or revise an existing plan. This section has two primary topics: (1) The process for developing or revising plans and (2) direction to include plan components and other content in the plan. The intent of this section is to set forth a process for planning that reflects public input and Forest Service experience. The process set forth in the final rule requires the use of the best available scientific information to inform planning (§ 219.3), and requires public participation early and throughout the process (§ 219.4). By conducting an assessment using a collaborative approach before starting a new plan or plan revision, and by working with the public to develop a proposal for a new plan or plan revision, the Department expects that the actual preparation of a plan would be much less time consuming then under the 1982 rule procedures, and that plans will be better supported. These requirements incorporate the best practices learned from the past 30 years of planning, and the Department concludes these practices can be carried out in an efficient and effective manner.

This section also sets out requirements for plan components. These plan components are based on techniques widely accepted and practiced by planners, both inside and outside of government. The set of plan components must meet the substantive requirements for sustainability (§ 219.8), plant and animal diversity (§ 219.9), multiple use (§ 219.10), and timber requirements based on the NFMA (§ 219.11) as well as other requirements laid out in the plan. Except to correct clerical errors, plan components can only be changed through plan amendment or revision. Plan components themselves cannot compel Agency action or guarantee specific results. Instead, they provide the vision, strategy, objectives, and constraints needed to move the unit toward ecological, social, and economic sustainability

In addition to the plan components, this section includes requirements for other plan content. Other required plan content differs from plan components in that an amendment or revision is not required for changes to be made that reflect new information or changed conditions.

Section 219.7—Response to Comments

Many comments on this section focused on aspects of the plan component and NEPA requirements. The Department retains the 2011 proposed rule wording in the final rule except for minor changes and the following:

(1) At paragraph (c)(2)(i) of this section, the Department consolidated the requirement to identify a preliminary need to change the plan from § 219.6(a) and § 219.7(a). This change is not a change in requirement for the planning process, but moves this requirement from the assessment phase to the start of the planning phase. Also, in this paragraph, the Department modified the wording to make the link between the assessment and monitoring phases with the plan phase clearer: the final rule requires that the responsible official review relevant information from the assessment and monitoring to identify a preliminary need to change the plan and to inform the development of plan components and other plan content. This change reflects the intent of the Department as stated in the preamble to the proposed rule and responds to public comment. It is a change in requirement.

(2) At paragraph (c)(2)(ii) of this section, the Department added a requirement to consider the goals and objectives of the Forest Service strategic plan. The Department added this requirement to respond to public comments and to address the requirement of 16 U.S.C. 1604(g)(3) to specify guidelines for land management plans developed to achieve the goals of the "Program." Today the "Program" is equivalent to the Forest Service strategic plan. This is an additional requirement to implement the NFMA.

(3) At, paragraph (c)(2)(v) of this section, the Department edited the wording regarding whether to recommend any additional area for wilderness to remove the confusing term "potential wilderness areas." The paragraph was also edited to clarify that lands that may be suitable, as well as lands that are recommended for wilderness designation, must be identified. These changes clarify the proposed rule and respond to public comment.

(4) At paragraph (c)(2)(vii), the Department added a new requirement to identify existing designated areas other than wilderness or wild and scenic rivers, and determine whether to recommend any additional areas for designation. The changes make clear that if the responsible official has the delegated authority to designate a new area or modify an existing area, then the responsible official may designate such lands when approving the plan, plan revision, or plan amendment. Based on

public comment, the Department added this requirement to clarify the requirement of § 219.10(b)(1)(vi) of the proposed rule.

(5) At paragraph (c)(3) the Department added the requirement for the regional forester to identify species of conservation concern for the plan area in coordination with the responsible official in paragraph (c)(2) of this section. The Department added this requirement in response to public comment to provide more consistency and accountability in selecting the species of conservation concern. This is a new requirement.

(6) At paragraph (d) of this section, the Department clarified that management areas or geographic areas are required in every plan. This is a clarification of paragraph (d) of the proposed rule and reflects the Department's intent for the proposed rule. Under the proposed rule, inclusion of management and/or geographic areas was implied by paragraph (d); the change to the final rule makes clear that every plan must include management areas or geographic areas or both, to which plan components would apply as described in paragraph (e) of the final rule. The Department removed the provision of the proposed rule that stated every project and activity must be consistent with the applicable plan components, because § 219.15(b) and (d) also state this, and this statement would be redundant. These changes are not changes in requirements; they are clarifications.

(7) At paragraph (e)(1)(iv), the Department clarified the wording in the description of a guideline to respond to comments on the preferred alternative. The Department changed the word "intent" to "purpose." The final wording is: "a guideline is a constraint on project and activity decisionmaking that allows for departure from its terms, so long as the *purpose* of the guideline is met." In addition, in the second sentence of paragraph (e)(1)(iv), Department added the words "or maintain" because guidelines, like standards, may be established to help achieve or maintain a desired conditions or conditions.

(8) At paragraph (e)(1)(v), the Department clarified that plans will include identification of specific lands as suitable or not suitable for various multiple uses and activities, in response to public comment on this section. It retains the wording that makes clear that the suitability of an area need not be identified for every use or activity, and adds clarifying wording stating that suitability identifications may be made after consideration of historic uses and of issues that have arisen in the planning process. This is a clarification of the proposed rule paragraph (d)(1)(v) to carry out the intent of the proposed rule.

Comment: Alternate plans. A respondent said wording contained in the 1982 rule at § 219.12(f)(5) requiring the Agency to develop alternatives to address public concerns should be restored.

Response: The rule requires preparation of an EIS as part of the plan revision process. The NEPA requires development of a range of reasonable alternatives in the EIS. Therefore, a duplicative requirement in the rule is not necessary.

Comment: Requests for revision. A respondent said there should be a process for others to request plan revisions. The responsible official would retain the option of determining whether such a request would warrant starting the assessment process.

Response: The public may request a plan revision at any time. The public does not need special process to make this request.

Comment: Combining multiple national forests under one plan. Some respondents felt a multi-forest plan would need separate tailored requirements for the different ecosystems, landscapes, landforms, forest types, habitats, and stream types that exist in each of the national forests affected.

Response: The final rule allows the responsible official the discretion to determine the appropriateness of developing a multi-forest plan, or a separate plan for each designated unit. Plan components would be designed as appropriate for those units to meet the requirements of the final rule, whether for a single or a multi-forest plan.

Comment: Environmental Policy Act compliance and plan development, amendment, or revision (NEPA). Some respondents felt plans should be as simple and programmatic as possible and that the preparation of an EIS for a new plan or plan revision is not appropriate. NEPA compliance should occur only at the project level. One respondent wanted a clear commitment for preparation of an EIS for forest plan revisions. Another respondent said categorical exclusions should be used for minor amendments, environmental assessments for more significant amendments, and EISs should be reserved for major scheduled plan revisions. A respondent said responsible officials should not be allowed to combine NEPA and planning associated public notifications (§ 219.16). A respondent said to please consider and discuss an efficient amendment process in the proposed rule. Another respondent proposed § 219.7(e)(1)(iv) be rewritten to clarify any aspect of any planning document are proposals subject to NEPA.

Response: The final rule requires the preparation of an EIS for plan revisions and new plans. Plan amendments must be consistent with Forest Service NEPA procedures, which require an EIS, an EA, or a CE, depending on the scope and scale of the amendment. Projects and activities will continue to be conducted under Forest Service NEPA procedures. The Department believes the NEPA analysis requirements are appropriate to inform the public and help responsible officials make decisions based on the environmental consequences. The requirements for public participation are described in § 219.4 and notifications in § 219.16. The Department retained the wording on combining notifications where appropriate to allow for an efficient amendment process while continuing requiring public notice.

The NEPA regulations at 40 CFR 1508.23 provides that a proposal "exists at that stage in the development of an action when an agency subject to the Act has a goal and is actively preparing to make a decision on one or more alternative means of accomplishing that goal and the effects can be meaningfully evaluated." Not all aspects of planning and planning documentation fall under this definition, and the Department considers classifying every aspect of every planning document as a "proposal" subject to NEPA would be an unnecessary and burdensome requirement on the Agency.

Comment: Additional coordination requirements. Some respondents suggested additional coordination requirements for noxious weed management, reduction of the threat of wildland fire, assessment of existing aircraft landing sites, and guidelines to ensure project coordination across forest and grassland boundaries where discrepancies between individual unit plans may occur.

Response: The Department agrees the issues raised are important. The final rule does emphasize an all lands approach precisely to address issues like these. This emphasis is in each phase of planning: in the assessment phase, responsible officials are directed to identify and evaluate relevant information in the context of the broader landscape; in § 219.8, the final rule requires that the responsible official consider management and resources across the landscape; and in § 219.4 the responsible official is directed to

consider opportunities for the plan to address the impacts identified or contribute to joint objectives across jurisdictions. Section 219.12 provides a framework for coordination and broader-scale monitoring. However, the rule provides overall direction for plan components and other plan content, and for how plans are developed, revised, and amended. More specific guidance with regard to particular resources is properly found in the plans themselves, or in the subsequent decisions regarding projects and activities on a particular national forest, grassland, prairie, or other comparable administrative unit. Those communities, groups, or persons interested in these important issues can influence plan components and plan monitoring programs by becoming involved in planning efforts throughout the process, including the development and monitoring of the plan, as well as the development of proposed projects and activities under the plan.

Comment: Scope of the responsible official's discretion. Some respondents raised concerns over the responsible official's discretion to determine conditions on a unit have changed significantly so a plan must be revised, because the proposed rule fails to define significant and does not include an opportunity for public involvement in this determination. Other respondents felt use of the terms "consider" and "appropriate," as in proposed § 219.7(c)(2)(ii) are vague, too discretionary, and could mean the official would look at conditions and trends, but then fail to address them, leading to a poor assessment and planning.

Response: A primary goal of the new rule is to create a framework in which new information is identified and used to support adaptive management. The Department expects the new rule to facilitate, over time, the increased use of the amendment process to react more quickly to changing conditions. Placing overly prescriptive requirements in this section could inhibit the responsible official's ability to adaptively manage within the planning rule framework. Section 219.7(c)(2)(ii) in the proposed rule, now (c)(2)(iii) in the final rule, is simply intended as a process step to identify the relevant resources present in plan area for the purpose of developing plan components. This is not intended to be a new assessment, but is linked to the requirements for the assessment in section 219.6(b) of the final rule. Sections 219.8–219.11 contain the requirements for developing plan components to address those resources.

Plan Components

Comment: Plan component wording, standards, and guidelines. A respondent remarked that it was unclear if plans could meet the requirements in this section for plan components by including only one of each of the different kinds of plan components, or whether the Agency is making a binding commitment to include more than one standard, which the respondent believed to be more binding than desired conditions or guidelines.

Response: This section of the rule identifies what plan components are, and requires that every plan contain desired conditions, objectives, standards, guidelines, and suitability. The intent of the Department in the proposed rule was that the responsible official would determine the best mix of plan components to address the rule's substantive requirements. However, some respondents were concerned that the rule could be interpreted to require only one of each kind of plan component for every plan. Therefore, the final rule includes changes to the wording in sections 219.8–11 to require that plans include "plan components, including standards or guidelines."

Comment: Desired Future Condition plan component. A respondent felt desired future condition should be included as a plan component, as it is more than the sum total of the individual desired conditions for each of the important ecological, social, and economic resources on the forest and causes individual desired conditions to occur somewhat in sync.

Response: Plans under the rule will identify the forest or grassland's distinctive roles and contributions within the broader landscape and the desired conditions for specific social, economic, and ecological characteristics of the plan area. The Department believes those requirements, combined with the requirements for public participation and integrated resource management, will result in plans that reflect an overall vision for the future desired condition of the plan area as a whole.

Comment: Desired conditions. Some respondents stated defining a desired condition as specific social, economic, and/or ecological conditions may continue ecologically unsustainable social and economic practices leading to unsustainable outcomes. A respondent commented that States are responsible for setting fish and wildlife population objectives and the wording must be changed to prevent the Agency from taking on the role of the States. Other respondents wanted more direction on how the responsible official determines desired conditions.

Response: Desired conditions are a way to identify a shared vision for a plan area. In some instances, desired conditions may only be achievable in the long-term. At times, the desired conditions may be the same as existing conditions. Desired conditions may be stated in terms of a range of conditions. Other plan components would provide the strategy and guidance needed to achieve that vision. Plans must meet the requirements of §§ 219.8 through 219.11, including to provide for ecological sustainability. Projects and activities must be consistent with desired conditions as described in § 219.15. The Forest Service Directives System will describe how desired conditions should be written and developed.

States do have responsibilities for managing fish and wildlife, but the rule requires plans to include plan components for ecological conditions (habitat and other conditions) to maintain diversity of fish and wildlife species, as required by NFMA. Responsible officials will continue to coordinate with Federal, State, and local governments and agencies on other public planning efforts.

Comment: Procedures for analysis. Some respondents suggested that the final rule should include specific procedures for analysis. These include specific economic indicators for the economic analysis part of the planning process, the model paradigm for social and economic resources important to rural communities, and means of weighing relative values of multiple uses.

Response: Such guidance is not included in this final rule. Analysis methods and technical procedures are constantly changing; the planning rule would quickly be outdated if specific methods were mandated. Additional guidance with regard to social and economic resource analysis is more appropriate in the Forest Service Directives System, and revisions to the Forest Service directives will be available for public comment.

Comment: Objectives. Several respondents supported clear, measurable, and specific objectives to enhance transparency and accountability. Several respondents felt basing objectives on reasonable foreseeable budgets unduly constrains planning analysis. Another respondent thought a desired condition without objectives is completely meaningless.

Response: The rule uses objectives to support measureable progress toward a desired condition. Objectives will lead

to the development of a proactive program of work to achieve the desired condition by describing the focus of management in the plan area. Objectives will be based on achieving and monitoring progress toward desired conditions, and will be stated in measurable terms with specific time frames. Objectives based on budgets and other assumptions help set realistic expectations for achievement of plan objectives over the life of the plan and assist in building public trust in the Agency being able to make progress towards achieving desired conditions and objectives.

Comment: Goals. Several respondents felt goals should be mandatory because broad general goal statements describe how the desired future conditions will be achieved and create the overall framework for the other plan components. Others felt they should be optional. Another respondent suggested inclusion of a goal to connect youth, minority, and urban populations to the national forest or grassland to better assure required plan components incorporate and reflect the needs of diverse populations.

Response: The proposed wording for goals is unchanged in the final rule because the proposed optional use of goals allows responsible officials to determine whether or not they are a useful plan component in addressing the local situation. Inclusion of a goal for youth, minority, and urban populations is not required in the final rule because the final rule requires the responsible official to encourage participation of youth, low-income populations, and minority populations throughout the planning process, and to consider opportunities to connect people with nature as well as to contribute to social and economic sustainability when developing plan components. See §§ 219.4, 219.8(b), and 219.10(a).

Comment: Suitability for uses other than timber. Some respondents felt the rule should require suitability determinations for multiple uses. In addition to suitability for timber use as required under NFMA, a respondent felt suitability of lands for livestock grazing, fire suppression, energy developments, mineral leasing, and off highway vehicles should be required to meet the Act. Another respondent felt economics should be a part of the analysis and land suitability determinations. A respondent felt identification of lands where specific uses are not allowed is de facto regulation of those uses, and proposed § 219.2(b)(2) wording "a plan does not regulate uses by the public" appears inconsistent with NFMA direction regarding the identification of lands as suitable for resource management activities, such as timber harvest. In addition, the respondent stated this wording may be inconsistent with proposed § 219.7(d)(1)(v) wording that a "plan may also identify lands within the plan area as not suitable for uses that are not compatible with desired conditions for those lands."

Response: Determining the suitability of a specific land area for a particular use or activity is usually based upon the desired condition for that area and the inherent capability of the land to support the use or activity. NFMA does not impose a requirement to make suitability determinations for all multiple uses. The NFMA requires that plans "determine * * * the availability of lands and their suitability for resource management" (16 U.S.C. 1604(e)(2).

The Department clarified the wording of paragraph (e)(1)(v) to make clear that plans will include identification of specific lands as suitable or not suitable for various multiple uses and activities, in response to public comment on this section; however, the Department decided not to require determinations in every plan for specific uses other than timber. The final rule retains the wording that makes clear that the suitability of an area need not be identified for every use or activity, and adds clarifying wording stating that suitability identifications may be made after consideration of historic uses and of issues that have arisen in the planning process. The responsible official will determine when to identify suitability for various uses and activities as part of the set of plan components needed to meet the requirements of §§ 219.8–219.11.

The identification of suitability is not de facto regulation of those uses. However, responsible officials may, and often do, develop closure orders to help achieve desired conditions. If a responsible official were to develop a closure order, that closure order is a regulation of uses and would prohibit or constrain public use and occupancy. Such prohibitions are made under Title 36, Code of Federal Regulations, Part 261—Prohibitions, Subpart B—Prohibitions in Areas Designated by Order. Issuance of a closure order may be made contemporaneously with the approval of a plan, plan amendment, or plan revision.

Comment: Suitability for mineral materials. Several respondents felt the determination of the suitability of lands for energy developments, leasing and extraction, mineral exploration, or mineral leasing must be required. Other respondents felt the rule should not imply the Agency has regulatory or administrative authority to determine which portions of NFS lands are suitable for mineral exploration and development as such a determination would be a de facto withdrawal not in accordance with existing laws.

Response: Responsible officials should not make suitability determinations for any resource such as minerals where another entity has authority over the disposal or leasing. Congress has given the Secretary of the Interior authorities over the disposal of locatable minerals (gold, silver, lead, and so forth) and leasable minerals (oil, gas, coal, geothermal, among others). The Secretary of Agriculture has authority over saleable minerals (sand, gravel, pumice, among others). The final rule or a plan developed under the final rule cannot make a de facto withdrawal. Withdrawals occur only by act of Congress or by the Secretary of the Interior through a process under 43 CFR 2300. The Forest Service minerals regulation at 36 CFR 228.4(d) govern how the Agency makes decisions about the availability of lands for oil and gas leasing, and those decisions are not suitability determinations. Decisions about availability of lands for oil and gas leasing under 36 CFR 228.4(d), have been made for most national forests and grasslands. Decisions about the availability of lands for oil and gas leasing under 36 CFR 228.4(d) are not plan components; however, availability decisions may be made at the same time as plan development, plan amendment, or plan revision; but that is not required.

Comment: Guidelines. One respondent noted the preamble for the proposed rule stated that guidelines are requirements, but felt guidelines should be optional. Another respondent felt the proposed rule eliminates the distinction between plan guidelines and standards, making guidelines legally enforceable standards with which all projects must comply. The respondent felt that making guidelines enforceable in the same way as standards eliminates what the respondent believed to be the Department's that guidelines are discretionary to provide management flexibility. One respondent policy advocated making guidelines binding, because if they are discretionary, why include them. Several respondents commented on the preferred alternative that the Department should remove the discretion to meet the rule's substantive mandates through either standards "or" guidelines by requiring "standards *and* guidelines."

Response: The final rule retains the proposed rule's distinction between

standards and guidelines. Under the final rule, standards and guidelines are both mandatory—projects and activities must be consistent with the applicable standards and guidelines. Consistency with a standard is determined by strict adherence to the specific terms of the standard, while consistency with a guideline allows for either strict adherence to the terms of the guideline, or deviation from the specific terms of the guideline, so long as the purpose for which the guideline was included in the plan is met (§ 219.15). This approach to guidelines allows for flexibility as circumstances warrant, for example, when there is more than one way to achieve the intended purpose, or new information provides a better way to meet the purpose, without lessening protections. Guidelines included in plans pursuant to this final rule must be written clearly and without ambiguity, so the purpose is apparent and project or activity consistency with guidelines can be easily determined.

The final rule retains the preferred alternative's wording of "standards or guidelines" throughout sections 219.8–219.11. While every set of plan components developed to meet a substantive requirement of the rule must include standards or guidelines, including both may not be appropriate in every circumstance.

Comment: Use of standards and guidelines to promote action. A respondent suggested standards and guidelines should be used to promote or mandate certain management actions, like managing suitable timberlands towards the desired future condition or reducing fuels around wildland-urban interface areas.

Response: The Department expects that the set of plan components developed in response to one or more requirements in the rule will facilitate management to move the unit towards one or more desired conditions. Standards and guidelines set out design criteria which are applied to projects and activities, but do not by themselves result in specific management actions taking place.

Comment: Mandatory standards. Some respondents stated the final rule must include measurable standards for specific resources such as climate change, species viability, sustainable recreation, valid existing rights, or watershed management, in order to implement the intent of the rule and to ensure consistency. Others were opposed to the use of standards and guidelines.

Response: The rule includes specific requirements for plan components in §§ 219.8 through 219.11. The final rule has been modified to clarify that "standards or guidelines" must be part of the set of plan components required by each of those sections. However, the Department does not agree there should be specific national standards for each of the resources or uses mentioned in the comment, because significant differences in circumstances across the National Forest System could make specific national standards unworkable or not reflective of the best available scientific information for a given plan area. The final rule balances the need for national consistency with the need for local flexibility to reflect conditions and information on each unit. Additional direction will be included in the Forest Service Directives System, and a new requirement was added to § 219.2 that require the Chief to establish a national oversight process for accountability and consistency of planning under this part.

Comment: Management areas and special areas. Some respondents indicated management areas and prescriptions should be required plan components and identification of areas with remarkable qualities for special designation should be required as part of the planning process.

Response: The final rule requires each plan to include management areas or geographic areas, allows for the plan to identify designated or recommended areas as management areas or geographic areas, allows the responsible official to identify or recommend new designated areas, and clarifies the term "designated area" under § 219.19, in response to public comment.

Comment: Potential wilderness area evaluation and management. Some respondents found the term "potential wilderness area" confusing or inadequate, and the wilderness evaluation process unclear or in conflict with congressional action.

Response: The final rule wording removes the term "potential wilderness areas" from the final rule in response to public comments. The wording in § 219.7 clarifies that the Agency will identify and evaluate lands that may be suitable for inclusion in the National Wilderness Preservation System and determine whether to recommend them for wilderness designation. Section 219.10(b)(iv) wording has also been changed to clarify that areas recommended for wilderness designation will be managed to protect and maintain the ecological and social characteristics that provide the basis for their suitability for wilderness designation. Direction for the evaluation process and inventory criteria is listed in Forest Service Handbook 1909.12—Land Management Planning Handbook, Chapter 70—Wilderness Evaluation. Chapter 70 is part of the Forest Service Directives System being revised following the final rule and the public is encouraged to participate in the upcoming public comment period for those directives. The wilderness evaluation requirement in the rule is not in conflict with the law. In addition, many State wilderness acts require the Forest Service to review the wilderness option when the plans are revised. The Utah Wilderness Act of 1984 is one example, Public Law 98–428. § 201(b)(2); 98 Stat. 1659.

Comment: Roadless area management and inventory. Some respondents noted that direction should be added to identify, evaluate, and protect inventoried roadless areas, and a requirement to remove these areas from lands suitable for timber production. Some respondents suggested inclusion of "unroaded areas," as defined in § 219.36 of the 2000 planning rule, in evaluation of lands that may be suitable for potential wilderness and protocols for such evaluation be included in the rule. An organization commented on the preferred alternative that the Department should clarify that the intended starting point for the wilderness evaluation is a full inventory of all unroaded lands.

Response: Agency management direction for inventoried roadless areas is found at 36 CFR part 294—Special Areas, and plans developed pursuant to the final rule must comply with all applicable laws and regulations (§ 219.1(f)).

The wording of § 219.7(c)(2)(v) was changed in the final rule to clarify that areas that may be suitable for inclusion in the National Wilderness System must be identified as part of the planning process, along with recommendations for wilderness designation. This change makes clear that each unit will identify an inventory of lands that may be suitable as a starting point for evaluating which lands to recommend. Inventories of lands that may be suitable for inclusion in the National Wilderness Preservation System will be conducted following direction in Forest Service Handbook 1909.12—Land Management Planning Handbook, Chapter 70 Wilderness evaluation, which also includes criteria for evaluation. Chapter 70 is part of the Forest Service Directives System which will be revised following the promulgation of this rule. The public is encouraged to participate in the upcoming public comment period for those directives. It is currently Agency policy that unless otherwise provided by law, all roadless,

undeveloped areas that satisfy the definition of wilderness found in section 2(c) of the Wilderness Act of 1964 be evaluated and considered for recommendation as potential wilderness areas during plan development or revision (FSM 1923).

Comment: Time limit on Congressional action. A respondent suggested the rule should include a 10-year time limit for Wild and Scenic River or Wilderness recommendations to be acted upon by Congress or the Agency's recommendation is withdrawn.

Response: The Constitution does not grant the U.S. Department of Agriculture authority to set time limits on Congressional action. The Department decided it is not going to require responsible officials to withdraw any such recommendations.

Other Plan Content

Comment: Forest vegetation management practices. Some respondents requested clarification of proposed § 219.7(f)(1)(iv) phrase "proportion of probable methods of forest vegetation management practices expected" as it is unclear what type of management practices must be undertaken to successfully satisfy this requirement.

Response: Section 16 U.S.C. 1604(f)(2) of the NFMA requires plans to "be embodied in appropriate written material * * * reflecting proposed and possible actions, including the planned timber sale program and the proportion of probable methods of timber harvest within the unit necessary to fulfill the plan." Therefore, under the final rule and Forest Service Directives System, the Department expects plans to display the expected acres of timber harvest by the categories, such as: regeneration cutting (even- or two-aged), uneven-aged management, intermediate harvest, commercial thinning, salvage/sanitation, other harvest cutting, reforestation, and timber stand improvement in an appendix. Examples of such exhibits are displayed in Forest Service Handbook 1909.12, Land Management Planning, Chapter 60, Forest Vegetation Resource Planning is available at *http://www.fs.fed.us/im/directives/fsh/1909.12/1909.12_60.doc.* The list of proposed and possible actions may also include recreation and wildlife projects. The final rule allows the list to be updated through an administrative change (§ 219.13(c)).

Comment: Distinctive roles and contributions. Some respondents said there is no legal requirement for identification of a forest or grassland's distinctive roles and contributions, and the requirement will bias and polarize the planning process in favor of some uses, products, and services and against others. Other respondents felt the unit's distinctive roles should be plan components requiring a plan amendment to change, or the wording strengthened to require assessment of underrepresented ecosystems and successional classes across the broader landscape.

Response: Under the public participation process, the Department believes the development of the distinctive roles and contributions, while not required by NFMA, will be a unifying concept helping define the vision for the plan area within the broader landscape. The preferred vision is expected to assist the responsible official in developing plan components for the multiple uses. However, projects and activities would not be required to be consistent with the plan area's distinctive roles and contributions, so the Department decided to keep this description as other plan content.

Comment: Additional plan components and content. Some respondents suggested additional required plan components like partnership opportunities, coordination activities, monitoring program, or specific maps.

Response: Plan components are the core elements of plans. Projects and activities must be consistent with plan components (§ 219.15), and an amendment or revision is required to change plan components. Plan components in the rule are usually reserved for ecological, social, or economic aspects of the environment, but the responsible official has discretion in developing plan components to meet the requirements of the final rule.

Some items like a monitoring program are included as other required content in the plan, but not as a required plan component. The final rule allows the responsible official to add other plan content for unit issues and conditions. Other plan content can be other information that may be useful to Forest Service employees when designing projects and activities under the plan components. The other content in the plan (§ 219.7(f)) differs from plan components in that an amendment or revision would not be required for changes to be made to reflect new information or changed conditions. Monitoring is not included as a plan component, so the monitoring program can be refined and updated without a plan amendment in response to new information or changing conditions. Listing of specific methods for partnership opportunities or coordination activities as part of the plan is optional content for a plan. The Department did not require specific maps as part of the final rule.

Comment: Priority Watersheds. Some respondents asked what process is used to identify priority watersheds and why priority watersheds are not a plan component. Some respondents noted the proposed rule requirement to identify priority watersheds for maintenance and restoration did not include specific criteria for selecting watersheds and did not prescribe what activities or prohibitions would occur in priority watersheds.

Response: Section 219.7(f)(1)(i) requires identification of priority watersheds for restoration. This will focus integrated restoration of watershed conditions. Setting priorities can help ensure that investments provide the greatest possible benefits. The Department realizes that priority areas for potential restoration activities could change quickly due to events such as wildfire, hurricanes, drought, or the presence of invasive species. Therefore, this requirement is included as "other required content" in § 219.7(f)(1)(i) rather than as a required plan component, allowing an administrative change (§ 219.13) to be used when necessary to quickly respond to changes in priority. Any changes would require notification.

The Department intends to use the Watershed Condition Framework (WCF), *http://www.fs.fed.us/publications/watershed/Watershed_Condition_Framework.pdf,* for identifying priority watersheds, developing watershed action plans and implementing projects to maintain or restore conditions in priority watersheds. However, the WCF is a relatively new tool that will be adapted as lessons are learned from its use, as new information becomes available, or as conditions change on the ground. Therefore, because the criteria for selecting watersheds may change in the future, it is not appropriate to codify such criteria in a rule. The adaptive management approach incorporated in the WCF provides the best opportunity and most efficient way to prioritize watersheds for restoration or maintenance. The Department expects that implementation of the final rule and the WCF will be mutually supportive.

Section 219.8—Sustainability

The requirements of this section of the final rule are linked to the requirements in the assessment (§ 219.6) and monitoring (§ 219.12). In addition,

this section provides a foundation for the next three sections regarding diversity of plant and animal communities (§ 219.9), multiple use (§ 219.10), and timber requirements based on the NFMA (§ 219.11). Together these sections of the final rule require plans to include plan components designed to maintain or restore ecological conditions to provide for ecological sustainability and to contribute to social and economic sustainability.

The requirements of this section, and all sections of the rule, are limited by the Agency's authority and the inherent capability of the plan area. This limitation arises from the fact that some influences on sustainability are outside the Agency's control, for example, climate change, national or global economic or market conditions, and urbanization on lands outside of or adjacent to NFS lands. Given those constraints, the Department realizes it cannot guarantee ecological, economic, or social sustainability. It is also important to note that plan components themselves do not compel agency action or guarantee specific results. Instead, they provide the vision, strategy, guidance, and constraints needed to move the plan area toward sustainability. The final rule should be read with these constraints in mind.

Additional requirements for contributing to social and economic sustainability are found in § 219.10 and § 219.11.

Section 219.8—Response to Comments

Many comments on this section focused on the concepts of ecological health, resilience and integrity, requirements for riparian area management, the relationship between social, ecological, and economic sustainability, and the requirements for social and economic sustainability. The Department reorganized this section to improve clarity, and made the following changes in response to public comment.

1. The Department changed the order of the wording of the introductory paragraph.

2. At paragraph (a)(1) of this section, the Department changed the caption "Ecosystem plan components" to "Ecosystem Integrity." In addition, the Department replaced the phrase "healthy and resilient" to "ecological integrity" in this paragraph and throughout this subpart. The Department also modified additional wording of this section to reflect this change. This change responds to public concern about how to define and measure "health" and "resilience." Ecosystem integrity is a more scientifically supported term, has established metrics for measurement, and is used by both the National Park Service and the Bureau of Land Management. Requirements included in this section, as well as in § 219.9 require plans to include plan components designed to "maintain or restore ecological integrity."

3. The Department modified the list of factors the responsible official must take into account when developing plan components at paragraph (a)(1)(i)–(v). The Department removed the term "landscape scale integration" and replaced it with a requirement for the responsible official to take into account the interdependence of terrestrial and aquatic ecosystems, the contributions of the plan area to the broader landscape, and the conditions of the broader landscape that influence the plan area. The Department also added a requirement to take into account opportunities for landscape scale restoration. The additional wording clarifies the Department's intent that the planning framework be designed to ensure that managers understand the landscape-scale context for management, and the interdependence of ecosystems and resources across the broader landscape.

The Department removed air quality from paragraph (a)(1) and added air quality to paragraph (a)(2). This change is in response to public comment that requested that air resources be treated in a similar manner to soil and water resources. Additionally, the paragraph was modified to add the term "standards or guidelines" to clarify here and in similar sentences throughout §§ 219.8 through 219.11 that standards or guidelines must be part of the set of plan components developed to comply with requirements throughout the rule. Except for the change for air quality, these changes to paragraph (a)(1) are not changes in requirements, because they reflect the Department's intent as stated in the preamble for the proposed rule, and provide additional clarity.

4. At paragraph (a)(2) of this section, the Department changed the caption "Ecosystem elements" to "Air, soil, and water." This reorganized paragraph requires the plan to have plan components, including standards or guidelines, to maintain or restore the elements of air, soil, and water resources. The Department also changed the phrase "maintain, protect, or restore" of the proposed rule to "maintain or restore" here and throughout the final rule. This change is in response to public comment, and to make the rule consistent throughout the sections, and recognizes that the concept of protection is incorporated as part of how a responsible official accomplishes the direction to maintain or restore individual resources. These changes are not changes in requirements, they are clarifications.

5. At paragraph (a)(2) the Department reorganized the elements that plan components are designed to maintain or restore. The Department removed the provisions about terrestrial elements and rare plant communities from paragraph (a)(2); these items are now discussed in § 219.9(a) of the rule. At paragraph (a)(2)(iv) the Department combined the wording about aquatic elements and public water supplies of paragraphs (a)(2)(i) and (a)(2)(iv) of the proposed rule. The wording about water temperatures changes, blockages of water courses, and deposits was removed from this paragraph and is now more appropriately discussed with riparian areas at paragraph (a)(3)(i) of this section.

6. Paragraph (a)(3) adds specific requirements to the proposed rule to maintain or restore riparian areas. It provides that plan components must maintain or restore the ecological integrity of riparian areas, including "structure, function, composition and connectivity," to make clear that the plan must provide direction for proactive management of riparian areas. Paragraph (a)(3) also sets out a list of elements relevant to riparian areas that must be considered when developing plan components to maintain or restore ecological integrity, and it changes the proposed rule's requirement for a "default width" for riparian areas to a requirement for a riparian management zone. These changes respond to public comment to provide more clear and specific direction for riparian areas. In addition, at paragraph (a)(3), the Department added a requirement to give special attention to the area 100 feet from the edges of perennial streams and lakes; and a requirement that plan components must ensure that no management practices causing detrimental changes in water temperature or chemical composition, blockages of water courses, or deposits of sediment that seriously and adversely affect water conditions or fish habitat shall be permitted within the zones or the site-specific delineated riparian areas. These requirements are carried forward from the 1982 rule. These additional requirements were added because public comments suggested the proposed rule was too vague or too open to interpretation with regard to minimum requirements.

7. At paragraph (a)(4), the Department added a requirement for the Chief to

establish requirements for national best management practices for water quality in the Forest Service directives and for plan components to ensure implementation of these practices. The public will have an opportunity to comment on these Forest Service directives. The Department added this requirement to respond to comments that the rule needed provisions to protect water quality and other comments about the use of best management practices.

8. At paragraph (b) of this section, the Department requires plan components to guide the unit's contribution to social and economic sustainability. The Department modified this paragraph to:

(i) Add reference to "standards or guidelines," consistent with changes in other sections.

(ii) Remove wording about distinctive roles and contributions contained in the proposed rule, because the requirement is in § 219.7. This is not a change in requirements.

(iii) Add scenic character, recreation settings, and access in response to public comment about recreation. This change reflects the intent of the Department as stated in the preamble to the proposed rule.

(iv) Add a new requirement to take into account opportunities to connect people with nature to respond to public comments about the need to connect Americans, especially young people and underserved communities, with the NFS. This additional requirement adds specificity to the proposed rule direction to contribute to social sustainability and provide for ecosystem services as defined in the proposed rule.

(v) Make additional edits for clarity.

Comment: Maintain, protect, or restore. Some respondents did not understand why in some sections of the rule (such as § 219.9) the phrase "maintain or restore" was used and in other sections (such as § 219.8) the phrase "maintain, protect, or restore" was used. They questioned whether the two phrases were intended to mean different things or provide different levels of protection.

Response: The use of the two different phrases in the proposed rule was unintended. There was no intent to impart differing levels of protection or different requirements by the use of the two phrases. After review of the proposed rule and the preamble, it is apparent that the two phrases are used interchangeably and often inconsistently. To avoid future confusion, the phrase "maintain and restore" has been used consistently throughout §§ 219.8 and 219.9. The Department believes that "protection" is inherent in maintaining resources that are in good condition and restoring those that are degraded, damaged, or destroyed. The Department did not intend to imply that plan components would not "protect" resources where the word "protect" was not part of the phrase. Maintenance and restoration may include active or passive management and will require different levels of investment based on the difference between the desired and existing conditions of the system.

Comment: Best management practices and specificity for water sustainability. Some respondents felt the requirements for maintaining and restoring watersheds, sources of drinking water, and riparian areas of the proposed rule lacked the specificity necessary to consistently implement the rule. A respondent said the rule should reemphasize a commitment to maintaining water quality standards—through the limitation of uses incompatible with clean water, management for restoration of water quality, and the mandatory use of best management practices. One respondent suggested that plans may list best management practices that a project is required to adopt. Other respondents said the final planning rule should also require monitoring for water quality standard compliance and implementation and effectiveness of best management practices.

Response: Wording was added to § 219.8 of the final rule to clarify and add detail to the requirements for plan components for watersheds, aquatic ecosystems, water quality, water resources including drinking water resources, and riparian areas, in response to public comment.

Wording was also added to require that the Chief establish requirements for national best management practices (BMPs) for water quality in the Forest Service Directives System, and that plan components ensure implementation of those practices. The relevant directives (FSM 2532 and FSH 2509.22) are currently under development and will be published for public comment. At this time, the Department anticipates that the proposed directives will require the use of the national core BMPs (*National Core BMP Technical Guide,* FS–990a, in press).

The final rule does not require monitoring of implementation and effectiveness of best management practices, but does require monitoring of select watershed and ecosystem conditions, as well as progress toward meeting the plan's desired conditions and objectives.

These changes and the requirements in this and other sections reflect the intent as stated in the preamble of the proposed rule to place a strong emphasis on water resources and develop a framework that will support watersheds, aquatic ecosystems, and water resources throughout the National Forest System.

Comment: Riparian area management zone size. Some respondents felt the rule should include a minimum default width for riparian areas ranging from 100 feet to 300 feet or to the width of the 100 or 200-year flood plain. Without specific requirements, respondents felt there would be inconsistent implementation of the rule. Others preferred the riparian area default width vary depending on ecological or geomorphic characteristics approach used in the proposed rule.

Response: The Department added wording at § 219.8(a)(3) to require special attention to land and vegetation for approximately 100 feet from the edges of all perennial streams and lakes. The Department decided to make this change to respond to public comment and retain the special attention provided in the 1982 rule, but decided not to require a minimum default width because the scientific literature states riparian area widths are highly variable and may range from a few feet to hundreds of feet. The final rule requires the responsible official to use the best available scientific information (§ 219.3) to inform the establishment of the width of riparian management zones around all lakes, perennial and intermittent streams, and open water wetlands. Plan components to maintain or restore the ecological integrity of riparian areas will apply within that zone, or within a site-specific delineation of the riparian area.

Comment: Management activities in riparian areas. Some respondents felt the riparian area guidance in the proposed rule represented a weakening of protection from the 1982 rule and wanted to see stronger national standards. They felt some management activities, like grazing and off-highway vehicle (OHV) use, should be prohibited or limited in riparian areas as they can be harmful to riparian area health. Others felt management activities in riparian areas should be left to only restoration efforts. Some respondents felt the riparian management requirements in the proposed rule were vague or too open to interpretation. Others felt the proposed rule may preclude active management within riparian areas.

Response: Section 219.8 has been revised in the final rule to address these concerns. The final rule requires the

responsible official to give special attention to land and vegetation for approximately 100 feet from the edges of all perennial streams and lakes and further requires that plan components must ensure that no management practices causing detrimental changes in water temperature or chemical composition, blockages of water courses, or deposits of sediment that seriously and adversely affect water conditions or fish habitat shall be permitted within the riparian management zones or the site-specific delineated riparian areas. The Department expects projects and activities, including restoration projects, will occur in riparian areas. Plans may allow for projects and activities in riparian areas that may have short term or localized adverse impacts in order to achieve or contribute to a plan's desired conditions or objectives, so long as they do not seriously and adversely affect water conditions or fish habitat.

These requirements are similar to the requirements of the 1982 rule. They are in addition to the final rule requirements in § 219.8(a)(3) that plans must include plan components, including standards or guidelines, to maintain or restore the ecological integrity of riparian areas in the plan area, including plan components to maintain or restore structure, function, and composition. The changes to the proposed rule make clear that plans must provide for the ecological integrity of riparian areas in the plan area, and must include a set of plan components, including standards or guidelines, to do so. The responsible official must also take into account water temperature and chemical composition, blockages of water courses, deposits of sediment, aquatic and terrestrial habitats, ecological connectivity, restoration needs, and floodplain values and risk of flood loss when developing these plan components. These requirements are in addition to the requirements in § 219.8(a)(2) to include plan components to maintain or restore water quality and water resources, and the requirement in § 219.7(f) to identify priority watersheds for restoration or maintenance.

The Department believes that these requirements provide strong direction for proactive management (active and passive) of water resources beyond what was required in the 1982 rule, while allowing the responsible official to use the best available scientific information, public input, and information about local conditions to inform development of plan components in response to these requirements.

Comment: Sustainability and multiple use. Some respondents felt the proposed rule did not adequately recognize the importance of the multiple use mandate because the proposed rule at § 219.8 omitted any reference to multiple use.

Response: The proposed rule and the final rule both explicitly recognize multiple uses in § 219.8(b), with additional direction provided in § 219.10 with regard to management for multiple uses.

Comment: Maintain ecological conditions. Some respondents felt the proposed requirements to maintain or restore ecological conditions in §§ 219.8 and 219.9 would allow for the Agency to develop plan components maintaining current degraded ecological conditions.

Response: The intent of the rule is for plan components to maintain desired conditions, and restore conditions where they are degraded. However, the Department recognizes in some instances it may be impracticable or impossible to restore all degraded, damaged or destroyed systems that may be present in a plan area because of cost, unacceptable tradeoffs between other resource and restoration needs, or where restoration is outside the capability of the land or Forest Service authority. There are also degraded areas on NFS lands where the tools or methods are not currently available to effectively restore them to desired conditions. The Department recognizes that at times, management activities maintaining existing, less than desirable conditions in the short-term may be critical to preventing further degradation and for successful restoration towards desired conditions over the long-term. For example, the primary management emphasis in some areas may be controlling the spread of invasive species when eradication is not currently feasible.

Ecological Integrity

Comment: Integration of terrestrial and aquatic ecosystems. Some respondents felt the proposed rule was unclear in the requirement that the responsible official take into account the integration of terrestrial and aquatic ecosystems in the plan area when creating plan components to maintain or restore the health and resilience of terrestrial and aquatic ecosystems and watersheds in the plan area.

Response: The final rule adds clarifying wording to § 219.8. The word "integration" was changed to "interdependence" to better reflect the Department's intent, and new wording was added requiring the responsible official to consider contributions of the unit to ecological conditions within the broader landscape influenced by the plan area and conditions in the broader landscape that may influence the sustainability of resources and ecosystems, as well as opportunities for landscape scale restoration. These changes clarify the former requirement in the proposed rule and strengthen the planning framework by ensuring responsible officials understand the interdependence of ecosystems in the plan area, as well as the role and contribution of their units and the context for management within the broader landscape.

Comment: Invasive species. Some respondents felt the rule should have more explicit requirements on how invasive species management would be included in plans.

Response: It is clear that the introduction of invasive species to national forest and grassland ecosystems has had, and is continuing to have, profound effects on the ecological integrity of these ecosystems. The final rule explicitly addresses invasive species in § 219.6, which requires information about stressors such as invasive species to be identified and evaluated, and in corresponding requirements in §§ 219.8 and 219.10. Plan components are required to maintain or restore ecological integrity under §§ 219.8, taking into account stressors including invasive species, and the ability of the ecosystems on the unit to adapt. Plan components for multiple uses must also consider stressors, including invasive species, and the ability of the ecosystems on the unit to adapt.

Social and Economic Sustainability

Comment: Relationship between ecological, social and economic sustainability. Some respondents felt ecological sustainability should be prioritized over social and economic sustainability, whereas other felt that economic sustainability should be prioritized. Others felt NFS lands should be managed primarily for multiple uses that contribute to economic and social sustainability. Some respondents felt the proposed rule incorrectly prioritizes plan components by use of "maintain or restore" elements of ecological sustainability over the use of the term "to contribute" for social and economic sustainability. Some respondents expressed differing opinions about the relative importance of ecological, social, and economic sustainability in relation to multiple uses. A respondent felt social and economic sustainability should not be included in the rule, while another felt

ecological sustainability should not be included. Some respondents felt social, environmental, and economic considerations are not competing values but interdependent and all play a role in management. Some respondents disagreed with the concept that the Agency has more control over ecological sustainability than social and economic sustainability. Some respondents felt the proposed rule definition of sustainability was not clear.

Response: The MUSYA requires "harmonious and coordinated management of the various resources, each with the other, without impairment of the productivity of the land, with consideration being given to the relative values of the various resources, and not necessarily the combination of uses that will give the greatest dollar return or greatest unit output" (16 U.S.C. 531). Under this final rule, ecological, social, and economic systems are recognized as interdependent, without one being a priority over another. The rule requires the consideration of ecological, social, and economic factors in all phases of the planning process. However, the final rule recognizes that the Agency generally has greater influence over ecological sustainability on NFS lands than over broader social or economic sustainability, although it cannot guarantee sustainability for any of three. The Department recognizes that management of NFS lands can influence social and economic conditions relevant to a planning area, but cannot ensure social and economic sustainability because many factors are outside of the control and authority of the responsible official. For that reason, the final rule requires that the plan components contribute to social and economic sustainability, and provide for ecological sustainability, within Forest Service authority and the inherent capability of the plan area.

Ecological sustainability will help provide people and communities with a range of social, economic, and ecological benefits now and in the future. In addition, plan components will provide directly for a range of multiple uses to contribute to social and economic sustainability. The final rule includes a modified definition of sustainability by defining the terms ecological sustainability, economic sustainability, and social sustainability as part of the definition of sustainability.

Comment: Connecting people to nature. Some respondents felt the rule should contain wording to encourage a sense of value for public lands necessary in maintaining these lands for enjoyment by future generations. In an increasingly urbanized society, they felt access to NFS lands is necessary for people to visit, learn, recreate, and generate their livelihood.

Response: Section 219.8(b)(6) of the final rule requires the responsible official take into account opportunities to connect people with nature.

Comment: Cultural sustainability. Some respondents felt the rule should include management of cultural resources as a separate aspect of sustainability. A respondent felt proposed § 219.8(b)(4) should be expanded to include "cultural landscapes."

Response: The final rule does not create a separate aspect of sustainability for management of cultural resources, but does address cultural resources and uses. The definition in the final rule of "social sustainability" recognizes the "relationships, traditions, culture, and activities that connect people to the land and to one another, and support vibrant communities." In addition: Section 219.1(c) recognizes that NFS lands provide people and communities with a wide array of benefits, including "cultural benefits." Section 219.4 requires opportunities for public and Tribal participation and coordination throughout the planning process. Section 219.4(a)(3) requires that the responsible official request "information about native knowledge, land ethics, cultural issues, and sacred and culturally significant sites" during consultation and opportunities for Tribal participation. Section 219.6(b) requires the assessment to include identification and evaluation of information about cultural conditions and cultural and historic resources and uses. Section 219.8 in the final rule recognizes cultural aspects of sustainability by requiring "cultural and historic resources and uses" be taken into account when designing plan components to guide contributions to social and economic sustainability. Section 219.10(b)(1)(ii) of the rule requires "plan components * * * for a new plan or plan revision must provide for protection of cultural and historic resources," and "management of areas of Tribal importance." The final rule also includes recognition of and requirements for "ecosystem services," which include "cultural heritage values." These requirements, in combination with the requirement that plan content include descriptions of a unit's roles and contributions within the broader landscape under § 219.7(e), ensure the cultural aspects of sustainability will be taken into account when developing plan components that guide unit contributions to social sustainability.

Comment: Local economies, communities, and groups. Some respondents felt the rule should require coordination with or participation of local communities. Some respondents felt the rule should recognize that how units are managed can greatly influence local communities and economies. Some respondents felt the rule should include maintaining "vibrant communities." Some respondents felt the proposed rule preamble discussion about the Agency's relative influence over ecological as compared with social and economic sustainability was incorrect, as the Agency has more influence or impact on local communities than the preamble implied. A respondent felt the rule should consider all communities, not just local. A respondent felt the proposed rule inappropriately allows the Agency to dictate social and economic sustainability of local communities.

Response: Nothing in the final rule would dictate the social or economic sustainability of local communities—to the contrary, the rule recognizes that plans cannot dictate social or economic sustainability. However, the Department recognizes that management of NFS lands can influence local communities as well as persons and groups outside of these communities, and that some local economies may be more dependent on the management of the plan area and NFS resources than others. Section 219.4 requires the responsible official to engage local communities, as well as those interested at the regional and national levels, as well as to coordinate with other public planning efforts, including State and local governments, and Tribes. Section 219.6(b) requires in the assessment phase that responsible officials identify and evaluate existing relevant information about social, cultural, and economic conditions, benefits people obtain from the NFS planning area, and multiple uses and their contribution to the local, regional, and national economies. Section 219.8 requires that plans provide plan components to contribute to economic and social sustainability, and section 219.10 requires plans to provide for ecosystem services and multiple uses. Section 219.12 requires monitoring progress toward meeting the desired conditions and objectives in the plan, including for providing multiple use opportunities. These requirements will help plans contribute to vibrant communities.

Comment: Specific processes for assessing social and economic

sustainability. Some respondents felt the final rule should include specific processes for assessing social and economic sustainability, such as analyzing the role of forest receipts (Federal revenues that are shared with states and counties) on local economies. A respondent felt the proposed rule required less involvement by social and economic experts than by other types of experts or scientists.

Response: The final rule provides a framework for plan development, amendment, and revision with sufficient flexibility to accommodate the continuously evolving range of social and economic conditions across the Forest Service administrative units. The final rule does not prescribe a specific process for assessing and evaluating social and economic sustainability, nor does it include descriptions of area boundaries for social and economic impact analysis. Such direction, guidance, or advice, is more appropriate in the Forest Service directives. The public will be given an opportunity to review and comment on any Forest Service Manual or Forest Service Handbook revision associated with land management planning. Social, economic, and ecologic experts are all welcome to participate in the planning process: This final rule does not discriminate or give more weight to one group or kind of expert over another.

Section 219.9—Diversity of Plant and Animal Communities

This section of the final rule fulfills the diversity requirement of the NFMA, which directs the Forest Service to "provide for diversity of plant and animal communities based on the suitability and capability of the specific land area in order to meet multiple-use objectives, and within the multiple-use objectives of a land management plan adopted pursuant to this section [of this Act], provide, where appropriate, to the degree practicable, for steps to be taken to preserve the diversity of tree species similar to that existing in the region controlled by the plan" (16 U.S.C. 1604(g)(3)(B)).

The final rule adopts a complementary ecosystem and species-specific approach to provide for the diversity of plant and animal communities and the long-term persistence of native species in the plan area. Known as a coarse-filter/fine-filter approach, this is a well-developed concept in the scientific literature and has broad support from the scientific community and many members of the public. This requirement retains the strong species conservation intent of the 1982 rule but with a strategic focus on those species that are vulnerable paired with a focus on overall ecosystem integrity and diversity. The final rule requires the use of the best available scientific information to inform the development of the plan components including the plan components for diversity. It also recognizes limits to agency authority and the inherent capability of the plan area.

The Department's intent in providing the requirements in this section is to provide for diversity of plant and animal communities, and provide ecological conditions to keep common native species common, contribute to the recovery of threatened and endangered species, conserve candidate and proposed species, and maintain viable populations of species of conservation concern within the plan area.

The premise behind the coarse-filter approach is that native species evolved and adapted within the limits established by natural landforms, vegetation, and disturbance patterns prior to extensive human alteration. Maintaining or restoring ecological conditions similar to those under which native species have evolved therefore offers the best assurance against losses of biological diversity and maintains habitats for the vast majority of species in an area, subject to factors outside of the Agency's control, such as climate change. The final rule recognizes the importance of maintaining the biological diversity of each national forest and grassland, and the integrity of the compositional, structural, and functional components comprising the ecosystems on each NFS unit.

The coarse-filter requirements of the rule are set out as requirements to develop plan components designed to maintain or restore ecological conditions for ecosystem integrity and ecosystem diversity in the plan area. Based upon the current science of conservation biology, by working toward the goals of ecosystem integrity and ecosystem diversity with connected habitats that can absorb disturbance, the Department expects that over time, management would maintain and restore ecological conditions which provide for diversity of plant and animal communities and support the abundance, distribution, and long-term persistence of native species. These ecological conditions should be sufficient to sustain viable populations of native plant and animal species considered to be common or secure within the plan area. These coarse-filter requirements are also expected to support the persistence of many species currently considered imperiled or vulnerable across their ranges or within the plan area.

For example, by maintaining or restoring the composition, structure, processes, and ecological connectivity of longleaf pine forests, national forests in the Southeast provide ecological conditions that contribute to the recovery of the red-cockaded woodpecker (an endangered species) and conservation of the gopher tortoise (a threatened species), in addition to supporting common species that depend on the longleaf pine ecosystem.

Similarly, maintaining or restoring shortgrass prairies on national grasslands in the Great Plains contributes to the conservation of black-tailed prairie dogs (regional forester sensitive species (RFSS) of the Rocky Mountain Region), mountain plovers (proposed threatened), and burrowing owls (RFSS), in addition to supporting common species that depend on the shortgrass prairie ecosystem. Maintaining or restoring watershed, riparian, and aquatic conditions in the national forests in the Northeast contributes to the conservation of the eastern brook trout (RFSS), in addition to supporting common species that depend on functioning riparian areas and aquatic ecosystems in the area.

The final rule would further require additional, species-specific plan components, as a "fine-filter," to provide for additional specific habitat needs or other ecological conditions of certain categories of species, when the responsible official determines those needs are not met through the coarse-filter. The species for which the rule requires fine-filter plan components, when necessary, are federally listed threatened and endangered (T&E) species, proposed and candidate species, and species of conservation concern. If the responsible official determines that compliance with the coarse-filter approach is insufficient to provide the ecological conditions necessary to contribute to the recovery of federally listed threatened and endangered species, conserve species that are proposed or candidates to Federal listing, or maintain within the plan area a viable population of a species of conservation concern, then additional species-specific plan components that would do so are required, within Agency authority and the inherent capability of the land.

Species-specific plan components provide the fine-filter complement to the coarse-filter approach. For example, while coarse-filter requirements to restore longleaf pine ecosystems may provide most of the necessary ecological conditions for the endangered red-

cockaded woodpecker, additional fine-filter species-specific plan components may also be needed, for example, a plan standard to protect all known red-cockaded woodpecker cavity trees during prescribed burning activities. Examples for other species might include requiring proper size and placement of culverts to allow for aquatic organism passage on all streams capable of supporting eastern brook trout, or requiring closure devices on all cave and mine entrances to prevent the spread of white-nose syndrome to bat populations in the plan area.

Unlike the 1982 rule, the final rule explicitly acknowledges that there are limits to Agency authority and the inherent capability of the land. With respect to species of conservation concern (SCC), the responsible official may determine that those limits prevent maintenance or restoration of the ecological conditions necessary to maintain a viable population of a species of conservation concern within the boundaries of the plan area. The responsible official must then include plan components to maintain or restore ecological conditions within the plan area to contribute to maintaining a viable population of that species within its range. In doing so, the responsible official would be required to coordinate to the extent practicable with other land managers.

Examples of factors outside the control of the Agency could include: A species needing an area larger than the unit to maintain a viable population; non-NFS land management impacts to species that spend significant parts of their lifecycle off NFS lands; activities outside the plan area (for example, increasing fragmentation of habitat or non- and point source pollution often impact species and their habitats, both on and off NFS lands); failure of a species to occupy suitable habitat; and climate change and related stressors, which could impact many species and may make it impossible to maintain current ecological conditions. Other stressors, such as invasive species, insects, disease, catastrophic wildfire, floods, droughts, and changes in precipitation, among others, may also affect species and habitat in ways that the Agency cannot completely control or mitigate for.

In section 219.19, the Department defines native species as "an organism that was historically or is present in a particular ecosystem as a result of natural migratory or evolutionary processes; and not as a result of an accidental or deliberate introduction into that ecosystem. An organism's presence and evolution (adaptation) in an area are determined by climate, soil and other biotic and abiotic factors." By defining species as "was historically or is present in a particular ecosystem," the Department is not suggesting that historically native species that are no longer present must be reintroduced. The Department is recognizing that if such species were to return or to be reintroduced to the area, they would still be considered native.

In addition to developing, amending, and revising plans under the diversity requirements of this section, the final rule includes requirements for ecological sustainability in § 219.8, and in § 219.10 for providing for multiple uses including wildlife and fish, considering ecosystem services, fish and wildlife species, habitat and habitat connectivity, and habitat conditions for wildlife, fish, and plants commonly enjoyed and used by the public when developing plan components for integrated resource management. Requirements in the assessment and monitoring phases are also linked to and support the requirements of this section.

Section 219.9—Response to Comments

The Department received many comments on this section. People suggested a broad range of approaches, including reinstating the 1982 viability requirements; protecting and maintaining healthy habitats with no species specific provisions; increasing viability requirements; and mirroring the NFMA wording for diversity without including reference to viability. In addition, some people emphasized that there is a need to coordinate and cooperate beyond NFS unit boundaries for purposes of identifying and protecting critical habitat, migration corridors, and other habitat elements.

The Department also received many comments expressing concern or confusion over the relationship between the ecosystem diversity requirement in paragraph (a) and the species conservation requirement in paragraph (b) in this section of the proposed rule. In particular, there was concern over whether the complementary coarse-filter and fine-filter strategy described in the preamble and DEIS for the proposed rule was clearly expressed in the proposed rule wording itself. Additionally, there was a lack of understanding of how these two requirements would maintain both the diversity of plant and animal communities and the persistence of native species within the plan area as expressed in the preamble.

In response to public comments, the Department modified the proposed rule wording and made additions to it. The result is a final § 219.9 that has the same intent as the proposed rule but is clearer and will better effectuate the Department's approach to providing for diversity.

The Department added wording to the introduction to explain, as expressed in the preamble for the proposed rule, that plans adopt a complementary ecosystem (coarse-filter) and species-specific (fine-filter) approach to maintaining the diversity of plant and animal communities and the persistence of native species in the plan area. This combined approach for maintaining biological diversity over large landscapes is a well-developed concept in the scientific literature, and is generally supported by the science community for application on Federal lands.

Paragraph (a) was modified with the new heading of "Ecosystem plan components," and subdivided into 2 parts. The new paragraph (a)(1) has a heading of "Ecosystem integrity" and includes the requirements of paragraph (a) of the proposed rule, consistent with the equivalent requirement in § 219.8(a). As in § 219.8 the "health and resilience" of the proposed rule was replaced with "ecological integrity" as described in the discussion of 219.8. The concept of ecological integrity is also being advanced by the U.S. Department of the Interior for National Park System lands. Having similar approaches to assessing and evaluating ecological conditions across the broader landscape will facilitate an all-lands approach to ecological sustainability.

The Department added a new paragraph ((a)(2)), which retains the proposed rule heading of "ecosystem diversity." This paragraph includes new wording to make clear that the plan must include plan components to maintain the diversity of ecosystems and habitat types in the plan area. This change was made to explain, as described in the preamble to the proposed rule that plans provide for ecosystem diversity. As part of providing for this requirement, paragraph (a)(2) includes direction to provide plan components to maintain and restore key characteristics of ecosystem types (similar to requirements of proposed rule § 219.8(2)(i) and (ii)), rare native plant and animal communities (moved from proposed rule § 219.8(a)(2)(iii)), and diversity of native tree species (moved from paragraph (c) of proposed § 219.9). Both subsections of paragraph (a) direct that the responsible official include "standards or guidelines" in the set of plan components developed to meet these requirements.

The heading of paragraph (b) was changed from "Species Conservation" to "Additional, species-specific plan components" to clarify the fact that both the ecosystem plan components (coarse-filter) and the additional species-specific plan components (fine-filter) contribute to species conservation. Paragraph (b)(1) adds proposed species to candidate species as species to be conserved. The substance of paragraph (b) was modified in the final rule to make it clear that the plan components required by this paragraph are intended to complement and supplement the coarse-filter requirements, where necessary.

In response to comments on the preferred alternative, a change was made to the wording in § 219.9(b)(1) to clarify the Department's intent that the responsible official must make a determination as to whether additional, species-specific plan components are required. The final rule states that "the responsible official shall determine whether or not the plan components required by paragraph (a) provide the ecological conditions necessary to: contribute to the recovery of federally listed threatened and endangered species, conserve proposed and candidate species, and maintain a viable population of each species of conservation concern within the plan area."

The "if then" statement in paragraph (b)(1) conveys the Department's expectation that for most native species, including threatened, endangered, proposed, candidate, and species of conservation concern, the ecosystem integrity and ecosystem diversity requirements (coarse-filter) would be expected to provide most or all of the ecological conditions necessary for those species' persistence within the plan area. However, for threatened, endangered, proposed, candidate, and species of conservation concern, the responsible official must review the coarse-filter plan components, and if necessary, include additional, species-specific (fine-filter) plan components to provide the ecological conditions to contribute to recovery of threatened and endangered species, to conserve proposed and candidate species, and to maintain viable populations of species of conservation concern in the plan area. As in many places in the final rule, paragraph (b) clarifies that the responsible official will include "standards or guidelines" in the set of plan components developed to meet these requirements. The word "developed" in this paragraph was changed to the word "included" to be consistent with similar construction in this and other sections that the plan will include plan components to meet various requirements.

Within paragraph (b)(1), the Department changed the requirement for ecological conditions to maintain "viable populations of species of conservation concern" (§ 219.9 (b)(3) of the proposed rule) to "*a* viable population of *each* species of conservation concern" (emphasis added). The change reflects the Department's intent from the proposed rule, but provides clarity in response to confusion about whether the proposed rule wording referred to populations of different species or multiple populations of the same species in the plan area, as well as concern that the proposed rule wording could be interpreted to mean that plans did not have to address every species of conservation concern. This clarification is consistent with the preamble of the proposed rule which discusses the agency's obligation in terms of maintaining "a viable population of a species of conservation concern * * * to maintain the long-term persistence of that species." 76 FR 8493 (February 14, 2011).

As in the proposed rule, the ecosystem and species-specific requirements in the final rule are both limited by Forest Service authority and the inherent capability of the plan area. As in the proposed rule, the final rule provides an alternative standard for species of conservation concern if it is beyond the Forest Service's authority or the inherent capability of the plan area to provide ecological conditions to maintain a viable population of a species of conservation concern within the plan area. In such cases, the final rule requires that the responsible official document that determination (new requirement in the final rule) and include plan components, including standards or guidelines, to maintain or restore ecological conditions within the plan area to contribute to maintaining a viable population of the species within its range. The words "to the extent practicable" following the word "contribute" were removed from the final rule because they caused confusion and were unnecessary given other provisions of the rule, including Section 219.1(g). The final rule retains a modified requirement that in providing such plan components, the responsible official shall coordinate to the extent practicable with other Federal, State, Tribal, and private land managers having management authority over lands "relevant to that population," to reflect the need for a cross boundary approach to species conservation.

The Department added paragraph (c) to the final rule to modify and clarify the definition of species of conservation concern, formerly in section 219.19. The new wording clarifies that the species of conservation concern must be "known to occur in the plan area," that the regional forester is the line officer who identifies the species of conservation concern, and the standard for that is "the best available scientific information indicates substantial concern about the species' capability to persist over the long term in the plan area."

The Department believes these revisions more clearly describe the application of the coarse-filter/fine-filter strategy for maintaining biological diversity as discussed in scientific literature and the PEIS. As plan components designed to meet these requirements are created and complied with, the broad spectrum of habitat and other ecological conditions necessary to support the diversity of plant and animal communities and the persistence of native plant and animal species would be expected through this complementary strategy.

Comment: Relationship between ecosystem diversity and species conservation. Some respondents felt the proposed rule was confusing in its description of the relationship between the ecosystem diversity requirement in proposed § 219.9(a) and the species conservation requirement in § 219.9(b). They felt the complementary coarse-filter/fine-filter strategy described in the preamble and DEIS was not clearly expressed in the proposed rule wording. Additionally, they felt it was unclear on how these two requirements would maintain the diversity of plant and animal communities and the persistence of native species within the plan area.

Response: In response to public comments, the Department clarified the proposed rule wording and made additions to the final rule. The coarse-filter/fine-filter approach used in the final rule and the modifications made to the proposed rule are explained in the introductory paragraphs of the response to comments on section 219.9.

Comment: Threatened, and endangered species. Some respondents felt the Department should consult with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service on potential effects to threatened and endangered species as a result of the proposed planning rule. Others felt recovery plans are not legally enforceable documents; therefore, they are not mandatory for Federal agency adoption.

Response: Beginning in 2009 and continuing through the development of this planning rule and its accompanying PEIS, representatives from the U.S. Fish and Wildlife Service and the National Marine Fisheries Service met regularly with the Forest Service to discuss ESA issues related to the rule. The three agencies worked together to identify the relevant issues and appropriate level of analysis associated with the final rule and environmental analysis, and have collaborated on a consultation process and on the biological assessment. The Agency requested consultation with these regulatory agencies in July 2011. Additionally, the Agency requested conferencing on the potential effects of the rule on all species proposed for Federal listing that currently occur on NFS lands and those that are candidates for Federal listing occurring on or are suspected to occur on NFS lands. The Agency completed consultation, as discussed in this preamble in the section with the caption of: *Compliance with the Endangered Species Act of 1973, as Amended.*

NFS lands are a major contributor to threatened and endangered species recovery plans and actions, maintaining habitat for such species as red-cockaded woodpecker, Canada lynx, bull trout, steelhead, and many other listed species. As part of the Forest Service mission, the actions needed to recover T&E species and maintain or restore critical habitats are a high priority. These species are at risk of extinction and are protected under the ESA. Under the ESA, the Forest Service is to carry out "programs and activities for the conservation of endangered species and threatened species" (16 U.S.C. 1536(a)(1)) and "insure that any action authorized, funded or carried out by [it] is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of [designated critical habitat]" (16 U.S.C. 1635(a)(2)).

As did the proposed rule, the final rule requires that the plan include plan components to provide ecological conditions in the plan area necessary to contribute to the recovery of T&E species, using coarse-filter plan components and adding species-specific plan components where necessary. While the 1982 rule at section 219.19(a)(7) did have specific requirements for protection of T&E critical habitat, and required objectives to remove T&E species from listing, where possible, through appropriate conservation measures, the requirement in the final rule that requires plan components to provide ecological conditions to "contribute to the recovery of" T&E species is more comprehensive. The final rule recognizes that these species may not be viable or have a viable population at this time, and in many cases may rely on lands and conditions outside NFS boundaries and beyond Agency control. Thus an individual NFS unit rarely can fully meet the recovery needs of a listed species. Under this final rule, the Department anticipates that plan components, including standards or guidelines, for the plan area would address conservation measures and actions identified in recovery plans relevant to T&E species. When implemented over time, these requirements would be expected to result in plans that will be proactive in the recovery and conservation of the threatened, endangered, proposed, and candidate species in the plan areas. These requirements will further the purposes of § 7(a)(1) of the ESA, by actively contributing to threatened and endangered species recovery and maintaining or restoring the ecosystems upon which they depend.

The Forest Service frequently collaborates with the U.S. Fish and Wildlife Service (USFWS) and the National Oceanic and Atmospheric Administration (NOAA) in the development and implementation of recovery plans for many species. The Forest Service will continue to work with USFWS, NOAA, States, and other partners to conserve and recover federally listed plant and animal species. The responsible official may also contribute to other recovery actions, such as species reintroductions to increase species distribution and threatened and endangered species monitoring programs. In addition, the Agency will continue to evaluate effects of proposed management actions to T&E species or designated critical habitat. Consultation with the appropriate regulatory agency(s) will also occur at the plan development, amendment, or revision stage and again at the project stage, if they may affect any federally listed species or designated critical habitat. Additional guidance will be forthcoming on procedures for conducting ESA section 7(a)(1) conservation reviews of plans in the Forest Service directives.

Complementary sections of the final rule, §§ 219.3, 219.4, and 219.6, in combination emphasize: the role of science in preparing, revising, or amending a plan; collaboration, including coordination with other planning efforts; consideration of objectives of other agencies and entities; the encouragement of appropriate agencies and entities to participate in determining assessment needs and identify contributions of relevant broad-scale assessments and plans of other agencies and governments; and the incorporation of broad-scale monitoring to address questions that are more appropriately answered at scales beyond NFS boundaries. These processes, programs, and activities would be incorporated into future unit planning processes and plans, and as these plans are implemented, they will actively contribute to ESA goals.

Comment: Candidate and proposed species. Many respondents supported the proposed rule requirement to conserve species that are candidates for Federal listing. Other respondents questioned why the proposed rule requires candidate species conservation as these species have not received Federal protection under ESA, and this may lead to more petitions for species listings being filed in the future and further limit the management options of the Agency.

Response: The Department added definitions for "candidate species," and "proposed species," and "conserve" to § 219.19 of the final rule to clarify the definitions of these terms and to avoid misunderstanding. Under the ESA, candidate and proposed species do not receive the special legal protections afforded to threatened and endangered species. However, the Department believes it is important to develop plan components for those plant and animal species that are proposed or candidates for Federal listing that occur on NFS lands, in order to assist in their recovery such that a Federal listing is no longer required. Similar to T&E species, candidate and proposed species may not have a viable population that can be maintained in the plan area at this time. In the final rule, the Agency would provide coarse-filter, and where necessary, additional fine-filter plan components for ecological conditions that would conserve candidate and proposed species, reducing risks to those species and providing for the maintenance or restoration of needed ecological conditions.

Comment: Authority for viability. Some respondents felt the proposed rule's concept of species viability may be outside the Agency's authority to implement; they take the position that managing for species diversity and viability is the responsibility of State agencies, the National Marine Fisheries Service, and the U.S. Fish and Wildlife Service.

Response: The requirement, to "provide for diversity of plant and animal communities" as set forth under

§ 1604(g)(3)(B) of the NFMA, does not specifically reference the diversity or viability of particular species. It is a statutory requirement that there be a planning rule that provides for diversity. However, it is within the Department's authority to require that plans provide ecological conditions to maintain viable populations of species of conservation concern. The Department's ability to maintain the diversity of plant and animal communities is dependent on protecting the plant and animal species and the interactions and processes the species perform. The Department developed the final rule in recognition that many Agency plans, programs, and activities are important influences on providing the desired ecological conditions for plant and animal communities and native species on NFS lands. In accordance with the MUSYA, plans must also provide for multiple uses including wildlife and fish.

The provisions in this final rule are focused on providing the ecological conditions necessary to support the diversity and persistence of native plant and animal species. The final rule maintains and provides additional direction to work with State fish and wildlife agencies, other Federal agencies, as well as others, to conserve fish, wildlife, and plant habitats and populations on NFS lands and to contribute to shared goals, such as those provided in state wildlife action plans or in threatened or endangered species recovery plans. Requirements in §§ 219.4, 219.6, 219.10, and 219.12 of this final rule complement and support interagency collaboration on habitat and species conservation.

Comment: Species of Conservation Concern (SCC) and Viability. Some respondents felt the rule should include the following wording from § 219.19 of the 1982 rule: "Fish and wildlife habitat shall be managed to maintain viable populations of existing native and desired non-native vertebrate species in the planning area." Some felt this standard should be extended to plants and invertebrates as well as vertebrates, and not only to SCC. Some respondents felt the proposed rule weakens current protections for plant and animal species therefore, the rule needs inclusion of clear, strong requirements focused on protecting and maintaining all native species within a plan area. On the other hand several respondents felt the proposed requirement to maintain viability of SCC is too expensive and cumbersome to implement. They felt this requirement is unattainable and procedurally impossible to demonstrate. Some respondents were opposed to providing protections for species other than vertebrates as it could lead to the possibility of maintaining viable populations of invertebrates, fungi, microorganisms, and other life forms, which these respondents suggest is inappropriate and beyond the Agency's authority.

Response: The Department concludes that managing ecological conditions for species protection is well within the authority of the Forest Service to manage the NFS for multiple use, and that the requirements of this section are more strategic and implementable than the 1982 rule while providing strong requirements focused on maintaining diversity and the persistence of native species within the plan area. The 1982 rule required that "habitat shall be managed to maintain viable populations of existing native and desired non-native vertebrate species in the planning area." There may be hundreds of vertebrate species on a particular plan area. For some vertebrate species there may be little scientific information about their life requirements and habitat relationships, even though they may be considered common and secure within habitats provided on a NFS unit. For other vertebrate species, the requirement to maintain viable populations in the planning area may be unattainable, for reasons outside of the Agency's control.

The final rule instead relies on current scientific literature to adopt the complementary ecosystem and species-specific approach described above in the introduction to this section, and to focus species-specific management attention on those species that are vulnerable. Ecosystem (coarse-filter) plan components are expected to provide the necessary ecological conditions for species that are common, with viable populations in the plan area and no reason for concern about their ability to persist in the plan area over the long term. For species that are known to be imperiled (threatened, endangered, proposed and candidate species), the final rule requires coarse-filter, and where necessary, fine-filter plan components to provide ecological conditions that contribute to recovery or conservation of the species, recognizing that there is likely not a viable population of such species in the plan area at the time of plan approval.

The final rule provides direction for a third category of species: species that are vulnerable within the plan area, but not federally recognized for purposes of the ESA. These are species known to occur in the plan area, for which the best available scientific information indicates a substantial concern about the species' capability to persist in the plan area over the long term. The Department called this category "species of conservation concern."

For this category of species, the final rule requires coarse-filter, and where necessary, fine-filter plan components to provide ecological conditions to maintain a viable population of such species within the plan area, where it is within Forest Service authority and the inherent capability of the land to do so. If providing the ecological conditions to maintain a viable population within the plan area is beyond Forest Service authority or the inherent capability of the land, then the final rule requires coarse-filter, and where necessary, fine-filter plan components to provide ecological conditions to contribute to maintaining a viable population of the species within its range. For example, if a unit is incapable of providing a sufficient amount of the ecological conditions necessary to maintain a viable population of a species of conservation concern within the plan area, then the responsible official must include plan components that provide the ecological conditions in the plan area necessary to contribute to a viable population of that species in the broader landscape. The rule requires the responsible official to work in coordination with other relevant land managers when developing such plan components.

Species of conservation concern, like the categories of common species and imperiled species, is not limited to native and desired non-native vertebrates (as in the 1982 rule); it may include any native plant or animal species that meets the definition. The Department has the authority to include requirements for species other than vertebrate species under the NFMA and the MUSYA. Non-vertebrate species can be federally recognized as threatened or endangered. In addition, in each NFS region, the regional forester has developed and maintained a list of regional forester sensitive species (RFSS) for over two decades. The RFSS list can include any native plant or animal species. RFSS are those plant and animal species identified by a regional forester for which population viability is a concern, as evidenced by: significant current or predicted downward trends in population numbers or density; or significant current or predicted downward trends in habitat capability that would reduce a species' existing distribution. RFSS are similar to SCC. The conservation and management of many RFSS has been a part of many land management

plans and projects and activities for decades.

The projected costs of carrying out the rule are found in the Regulatory Planning and Review section of the preamble and in the final PEIS supporting this final rule. These costs are not expected to be too expensive or cumbersome to be carried out by the Agency. Because these requirements adopt a scientifically supported approach, acknowledge that there are limits to Agency control, and focus management attention more strategically on ecosystem plan components that will provide for most species and where necessary on additional species-specific plan components for species that are vulnerable, the Department believes that the requirements of this section, combined with the requirements in other sections of the rule for public participation, assessment and monitoring, will result in a strong, more effective, efficient, and implementable framework for providing for species diversity and persistence.

Comment: Distribution of species or habitat. Some respondents raised concerns that the definition of a viable population and the requirements for species of conservation concern do not include the requirement that these species or habitats be "well-distributed" as is required in the 1982 rule and they feel that this omission results in a lessening of protection for species between the 1982 rule and this final planning rule.

Response: NFMA does not require that species or habitats be well-distributed within the plan area. The 1982 rule stated at § 219.19 that: "Fish and wildlife habitat shall be managed to maintain viable populations of existing native and desired non-native vertebrate species in the planning area. For planning purposes, a viable population shall be regarded as one which has the estimated numbers and distribution of reproductive individuals to insure its continued existence is well distributed in the planning area. In order to insure that viable populations will be maintained, habitat must be provided to support, at least, a minimum number of reproductive individuals and that habitat must be well distributed so that those individuals can interact with others in the planning area."

This final rule includes requirements to restore or maintain ecological conditions to support viable populations of species of conservation concern. It requires that the responsible official determine whether or not the plan components required by paragraph (a) "provide the ecological conditions necessary to * * * maintain a viable population of each species of conservation concern within the plan area. If the responsible official determines that the plan components required in paragraph (a) are insufficient to provide such ecological conditions, then additional, species-specific plan components, including standards or guidelines, must be included in the plan to provide such ecological conditions in the plan area" (§ 219.9(b)(1)). The rule defines a viable population as: "A population of a species that continues to persist over the long term with *sufficient distribution to be resilient and adaptable* to stressors and likely future environments" (§ 219.19) (emphasis added).

The intent behind both the 1982 provisions and the final rule provisions is the same: To provide habitat to maintain viable populations. However, there are a number of reasons for the Department's decision not to include the term "well-distributed" in the final rule and instead used the phrase "with sufficient distribution to be resilient and adaptable." The term is not defined in the 1982 rule, has been inconsistently interpreted in plans, and has been applied in many different ways.

Importantly, the term "well-distributed" on its own is not clearly biological: Many people have interpreted the term in a geographical context as opposed to a biological context. This geographic interpretation has proven problematic at times, because the plan area is not an ecological boundary; it is an administrative boundary that may overlap completely or only partially with a species' natural ecological range. In addition, for some species, those areas of overlap may be changing in response to changing conditions.

Since 1982, we have learned more about what is important for a species to persist on the landscape, with an evolving understanding of important ecological concepts like resilience, connectivity, and adaptability, and of stressors such as climate change. For these reasons, instead of relying on the term "well-distributed," the Department chose instead to include a more ecologically-based definition of a viable population, "with sufficient distribution to be resilient and adaptable to stressors and likely future environments" such that the population "continues to persist over the long term."

Combined with the requirement in section 219.3 to use the best available scientific information to inform the plan, this definition is intended to focus the development of plan components on providing ecological conditions where they will be most useful and important to the species, which may or may not lead to habitat that is evenly or "well" distributed across the plan area for every species. For some species, that may mean having the appropriate ecological conditions throughout the plan area. For others, it may mean focusing on a small portion of the plan area. For others, it may mean working to restore or provide ecological conditions for a species whose range is migrating in response to changing conditions. For still others, it may mean providing a corridor or corridors to connect habitat.

The change from "well distributed" to "sufficient distribution to be resilient and adaptable" is intended to clarify that we are using "distribution" in an ecological context to support species' long term persistence and to help increase consistency in implementation. The Department recognizes that the long-term security of species improves as distribution increases and habitat and other ecological conditions are maintained or improved. Whether distribution is "sufficient" will be evaluated in the context of what a population needs for resilience and adaptability such that it can continue to persist over the long term, considering the species' natural history, the ability of individuals to interact, historical distribution and potential future distribution, and recognizing that habitat and species distribution will be dynamic over time. The responsible official will use the best available scientific information to inform this evaluation. In making this evaluation, it is the Department's expectation that for the purposes of this subpart, the individuals of a species of conservation concern that exist in the plan area will be considered to be members of one population of that species. The responsible official would consider the distribution of individuals or groups that would support a viable population of that species in the plan area. Additional guidance will be included in the directives, which will be available for public notice and comment.

It is important to recognize that the requirements of § 219.9(b)(1) and the definition of viable population support and are part of a broader set of requirements in the final rule that are important for species conservation, including the requirements in §§ 219.8 and 219.9 to maintain or restore ecological integrity, including connectivity of ecosystems in the plan area; and the requirement in § 219.9(a) to provide a diversity of ecosystem types throughout the plan area.

Combined, the requirements in the final rule are expected to provide the

conditions that support the persistence of native species in the plan area and maintain the diversity of plant and animal communities. For these reasons, the Department believes that the set of requirements in the final rule is not a lessening of protection from the 1982 rule, and represents a science-based approach to species conservation.

Comment: Identification and definition of species of conservation concern. Some respondents felt the proposed rule was unclear on who the responsible official for identifying SCC was, what criteria would be used to identify SCC; and whether or not that criteria should be established in the planning rule. Some respondents offered suggested criteria for identifying SCC. Several respondents expressed concern the proposed rule provides too much discretion to the responsible official in deciding which species will receive protection.

Response: In response to these comments, the definition of species of conservation concern was moved from § 219.19 to a new paragraph (c) in this section and was modified. The Department changed the line officer who identifies the SCC for the plan area from the responsible official (normally the forest supervisor) to the regional forester in the final rule. The change was made to provide additional consistency and promote efficiency in identifying species of conservation on and among national forests and grasslands within a region. The broader-scale monitoring strategy will also be developed by the regional forester.

The final rule's definition of SCC makes the criterion for identifying such species narrower and more scientific than the definition in the proposed rule. The species must be "known to occur in the plan area," and "the best available scientific information" must indicate "substantial concern" about the species' capability to persist over the long-term in the plan area.

Additional guidance for the identification of species of conservation concern will be included in the Forest Service Directives System, with an opportunity for public comment. The Department expects that State or Tribal lists of endangered, threatened, rare, endemic, or other classifications of species, such as those listed as threatened under State law; and other sources such as the NatureServe conservation status system may be used to inform the identification of SCC.

Comment: Circumstances not within Forest Service authority, consistent with the inherent capability of the plan area. Some respondents felt the rule needs to clarify what is meant by "within Forest Service authority, and consistent with the inherent capability of the plan area," to provide consistency in their application and intent. Others felt use of these terms allowed the Agency to avoid responsibilities for maintaining the diversity of plant and animal communities and the persistence of native species within the plan area. Still others felt the rule should describe the types of circumstances that make the Agency's ability to meet the requirement for maintaining viable populations of species of conservation concern infeasible or impractical. Some respondents said the rule should provide more discretion and flexibility.

Response: The acknowledgment of limits to Agency authority and the inherent capability of the land do not "allow" the Agency to avoid responsibility for maintaining the diversity of plant and animal communities and the persistence of native species within the plan area. These limits exist whether they are acknowledged in the rule or not. The Department believes it is more transparent and effective to require a robust and scientifically supported approach to providing for the diversity of plant and animal communities and the persistence of native species within the plan area and openly acknowledge that there are some circumstances outside of Agency control, allowing responsible officials to adjust, adapt, and work more collaboratively with other land managers to protect species in the context of the broader landscape.

The "inherent capability of the land" is defined in § 219.19 of the final rule as: "The ecological capacity or ecological potential of an area characterized by the interrelationship of its physical elements, its climatic regime, and natural disturbances" Examples of circumstances where the plan area may lack the inherent capability to maintain a viable population of a species include where a plan area is not large enough to produce sufficient habitat on the unit or where, due to current or projected changes in climate, it would be impossible for the plan area to produce or maintain the required amount or quality of habitat conditions necessary to sustain a viable population of the species within the plan area. Additional examples of circumstances outside the Agency's control, including those that may be outside the Agency's authority or the inherent capability of the land, are discussed earlier in this document as part of the rational for non-selection of Alternative B (No Action).

There may also be circumstances where the plan area has the inherent capability over time to provide for certain ecological conditions, but cannot produce such ecological conditions within the lifetime of the plan: for example, where a species needs old growth or late successional habitat where there is none (for example, where bark beetle has killed all of the late successional stands in a plan area). The plan would include plan components to move the plan area towards providing that habitat in the future, but would not have the capability to produce it instantly.

Examples of circumstances not within the authority of the Agency include land use patterns on private lands within or adjacent to NFS units that fragment and reduce habitat for a species whose range extends well beyond the plan area, habitat loss or degradation along important migration routes or wintering grounds for a species who spends some of its life history on other lands or in other countries, or the influence of disease or invasive species.

Section 219.3 requires the use of the best available scientific information to inform the plan components required by this section, and § 219.14 requires the responsible official to document how the requirements of this section were met. Section 219.2 requires that the Chief establish a national oversight process for accountability and consistency. The Forest Service Directives System will include additional direction for implementing the requirements of this section, and will be available for public comment.

Comment: Diversity of tree and other plant species. Some respondents felt the rule is not protective enough of the diversity of tree and other plant species. Others felt the rule should have specific requirements for old growth and large, intact blocks of forest; leaving more snags and dead wood; reforestation guidelines that include diverse tree mixtures; and use of herbicides.

Response: The Department based the requirements of § 219.9(a)(2)(iii) on the NFMA.

The final rule requires in paragraph (a)(2)(i) and (ii) plan components to provide for key characteristics associated with terrestrial and aquatic ecosystem types and rare aquatic and terrestrial plant and animal communities, which may include old growth stands, meadows, snags, or other characteristics. These characteristics are similar to what was required in the proposed rule at § 219.8(2)(i) and (ii) and (iii)). More specific requirements were not included in the final rule, because these issues are best identified and determined at the forest or grassland level, reflecting ecosystems

and plant and animal communities on the unit. Further direction will be provided in the Forest Service Directives System and in individual plans.

Comment: Additional species comments. Some respondents felt the rule should include direction on species assessments, developing the coarse-filter, and disclosing specific environmental effects.

Response: The Department agrees the issues raised are important. The final rule is intended to provide overall planning direction applicable throughout the entire National Forest System. The type of guidance requested by these respondents is more appropriately found in the Forest Service Directives System and/or in the plans themselves or in the subsequent decisions regarding projects and activities on a particular national forest, grassland, prairie, or other comparable administrative unit. Some of the requested guidance, such as how to do assessments for particular species, would not apply to planning throughout the entire System. Other types of guidance, instructing the Agency on how to carry out the rule's requirements, may be so detailed that if, included in the rule, may make it unmanageably long and complicated. Also, including instructions in the rule on how to carry out various planning tasks may tie the Agency to procedures even when it learns better ways to carrying out those tasks. The Department concludes that placing such direction in Forest Service directives, which can change more readily than a rule, or allowing the Agency to try out various ways to carry out the rule, is likely to result in more effective and efficient planning than including such detail in the final rule itself.

Comment: "survey and manage." Several respondents requested the planning rule require "survey and manage" procedures currently employed in the Pacific Northwest under the Northwest Forest Plan. Several respondents said one foreseeable outcome could be court ordered service-wide requirements for "survey and manage" as they believe is currently mandated in the Northwest Forest Plan. One respondent believes by expanding the requirements for viability beyond vertebrates the Forest Service will be forced to use "survey and manage" procedures of the Northwest Forest Plan on a nationwide basis.

Response: The final rule does not require "survey and manage" procedures similar to those in the Northwest Forest Plan. "Survey and manage" is a Northwest Forest Plan program where, before ground disturbing projects can be approved, the Forest Service must inventory late successional and old structure stands for nearly 400 species including fungi, lichens, bryophytes, mollusks, and several vascular plants, arthropods and vertebrates. None of the species are listed under ESA, but little is known about them. The final rule requires an assessment of existing, relevant information, and the use of best available scientific information to inform plan components to meet the species and diversity requirements of the rule. The final rule clarifies that species of conservation concern must be known to occur in the plan area and that the best available scientific information must indicate substantial concern about the species' capability to persist over the long term in the plan area.

Section 219.10—Multiple Use

This section requires that plans provide for ecosystem services and multiple uses, including outdoor recreation, range, timber, watershed, wildlife, and fish, within Forest Service authority and the inherent capability of the plan area, through integrated resource management. The responsible official must consider a range of uses, resources, services, and opportunities relevant to the plan area when developing plan components to provide ecosystem services and multiple uses, along with reasonably foreseeable risks to ecological, social, and economic sustainability. In addition, this section includes specific requirements for plan components for a new plan or plan revision. This section builds on the requirements in § 219.8 for plans to provide for ecological sustainability and contribute to social and economic sustainability.

Section 219.10—Response to Comments

Many comments on this section focused on multiple use requirements, requirements for ecosystem services, recreation, cultural and historic resources, wilderness and wild and scenic rivers, and designated areas. In response to public comment, the Department made a number of changes to this section to clarify intent.

The Department rearranged the wording of the introductory paragraph of this section to clarify the intent of the Agency that plans must provide for ecosystem services and multiple uses. The Department removed the term "fiscal capability" from the introductory paragraph because direction about fiscal capability is now included in § 219.1(g), and to be consistent with §§ 219.8 and 219.9.

The Department modified the requirements of paragraph (a) to clarify the wording, make these requirements parallel to other sections of the rule, and to respond to public comments. The Department added a requirement to have plan components, including standards or guidelines, for integrated resource management to provide for ecosystem services and multiple uses in the plan area. This change is in response to public comment to clarify that plan components for integrated resource management are to provide for ecosystem services and multiple uses, and to require standards or guidelines as part of the set of plan components developed to comply with the requirements of paragraph (a). As in earlier sections, the Department also changed the phrase "multiple uses, including ecosystem services" to "ecosystem services and multiple uses," consistent with the MUSYA (see response to comments for § 219.1). The Department added a definition of integrated resource management in § 219.19, reflecting the interdependence of ecological resources as well as economic, ecological, and social systems.

Paragraph (a)(1) to (a)(10) includes a list of elements the responsible official shall consider when developing plan components for integrated resource management to provide for ecosystem services and multiple uses in the plan area. The Department modified this list in response to public comments; some of these modifications are additional requirements. The Department modified the list as follows: In paragraph (a)(1), changed the term recreational values to recreation opportunities to make the wording consistent with other sections and with paragraph (b)(1), and added "and uses" to the end of the list in paragraph (a)(1) to recognize that the list includes both resources and uses and that there may be other resources and uses relevant to the plan area; in paragraph (a)(3), added the words "appropriate placement of infrastructure" to recognize that there may be new infrastructure needs or proposals in addition to the need for sustainable management of already existing infrastructure; in paragraph (a)(5), modified wording to emphasize that responsible officials, in addition to meeting the requirements in § 219.9 for diversity and species and providing for wildlife and fish as part of the earlier direction in § 219.10 and paragraph (a)(1), should specifically consider habitat conditions for species that are used or enjoyed by the public for recreational opportunities such as

hunting and fishing, or for subsistence, and added a requirement that the responsible official collaborate with other land managers in doing so; in paragraph (a)(6), dropped the wording in the proposed rule to consider "the landscape context for management as identified in the assessment" because it was redundant with modifications made to the requirements in § 219.7, and moved the text at proposed paragraph (a)(7) to the final paragraph (a)(6); moved the text from proposed rule paragraphs (a)(7), (8) and (9), with some modifications, to the final rule paragraphs (a)(6),(7), and (8); in paragraph (a)(9) in the final rule added a new requirement, to consider "public water supplies and associated water quality," in recognition of the role that national forests and grasslands play in providing drinking water to nearly one in five Americans; and added a requirement at (a)(10), to require consideration of opportunities to connect people to nature, recognizing that plans should consider both the resources on the plan area and people's connection to them.

Paragraph (b)(1)(i) to (b)(1)(vi) sets forth a list of requirements for plan components for new plans or plan revisions, adding the requirement that the set of plan components developed to meet these requirements include standards or guidelines, consistent with similar changes in other sections. The Department modified the requirements of paragraph (b) to clarify the wording, make these requirements parallel to other sections of the rule, and to respond to public comments. In paragraph (b)(1)(i), the Department slightly modified the requirement to require that plans must provide for sustainable recreation, including recreation settings, opportunities, and access; and scenic character; and to make clear in this section that recreation opportunities may include non-motorized, motorized, developed, and dispersed recreation on land, water, and in the air.

In addition, the Department modified paragraph (b) by: Changing the wording for protection of wilderness and management of areas recommended for wilderness to be clearer; adding a requirement for management of rivers "determined suitable" for inclusion in the Wild and Scenic River System; changed paragraph (b)(1)(vi) to be consistent with changes made to § 219.7(c)(2)(vii) that clarify that the responsible official may establish new designated areas as part of the plan; and made additional edits for clarity. Some of these are additional requirements to respond to public comment.

Comment: Inclusion of MUSYA, multiple use. Some respondents felt proposed § 219.10 does not specifically reference MUSYA. Other respondents felt that administering the NFS lands for multiple uses should not be included in the final rule. Some respondents requested the rule include specific uses.

Response: The Department made changes to this section to clarify that plans must include plan components to provide for multiple uses. The MUSYA has guided NFS management since it was enacted in 1960, and will continue to do so, regardless of whether it is specifically referenced in this section, or any other section, of the rule. The MUSYA expanded upon the original purposes for which national forests may be established and administered, which were identified in the Organic Administration Act: "to improve and protect the forest within the boundaries, or for the purpose of securing favorable conditions of water flows, and to furnish a continuous supply of timber for the use and necessities of citizens of the United States." (Act of June 4, 1897 (16 U.S.C. 475)).

The MUSYA states that the Forest Service is to "administer the renewable surface resources of the national forests for multiple use and sustained yield of the several products and services obtained therefrom." (16 U.S.C. 529). The Act defines "multiple use" as "The management of all the various renewable surface resources of the national forests so that they are utilized in the combination that will best meet the needs of the American people; making the most judicious use of the land for some or all of these resources or related services * * *." (16 U.S.C. 531(a)).

The Department acknowledges and applies the MUSYA throughout the final rule. In the very first section of the final rule, § 219.1(b) states that the Forest Service manages the NFS to sustain the multiple use of its renewable resources in perpetuity while maintaining the long term health and productivity of the land, consistent with MUSYA. The rest of the sections in subpart A give additional direction on how to do that. The assessment phase and public participation will help the responsible official determine the range of ecosystem services and multiple uses provided by the unit. Section 219.10 requires plan components to provide for ecosystem services and multiple uses, using an integrated approach to resource management. These plan components will be informed by the assessment, public input, and the best available scientific information, as well as monitoring.

Comment: Ecosystem services and methods for assessing multiple use. Some respondents felt the proposed rule improperly expands the MUSYA's specified multiple use purposes to include ecosystem services, which the proposed rule defines as educational, aesthetic, spiritual, and cultural heritage values. Some respondents felt ecosystem services should be determined by research.

Response: The phrase "multiple uses, including ecosystem services" has been changed throughout the rule to "ecosystem services and multiple uses." The Department believes this revised wording is consistent with the MUSYA, which directs the Agency to "develop and administer the renewable surface resources of the national forests for multiple use and sustained yield of the several products and services obtained therefrom" (16 U.S.C. 529). MUSYA anticipated and provided for "periodic adjustments in use to conform to changing needs and conditions." (16 U.S.C 531). "Ecosystem services" may be a relatively new term, but it is entirely within the scope of the Act to acknowledge that the "several products and services obtained" from national forests and grasslands incorporates the full range of values, resources, uses and benefits that these lands provide.

Research has provided insights into the ecosystem services to be obtained from the NFS. During the planning process, the assessment phase, public input, monitoring, and the best available scientific information will help the responsible official identify and develop plan components to provide for the ecosystem services to be obtained from each NFS unit.

Comment: Relationship of ecosystem services to other multiple uses. Some respondents felt proposed § 219.10 gave ecosystem services higher priority than other multiple uses.

Response: The final rule does not give ecosystem services higher priority than multiple uses. It provides an integrated resource management approach, where interdependent elements of sustainability are considered as a whole, instead of as separate resources or uses. The mix of plan components included in each plan will reflect local conditions in the broader landscape, the best available scientific information, and public input.

Comment: Procedures for economic analysis. Some respondents felt the rule should include specific economic indicators for the economic analysis, the model paradigm for social and economic resources, and means of weighing relative values of multiple uses. Some respondents suggested the

rule should include specific procedures for analysis of ecosystem services. Several respondents suggested the rule include specific methods for assessing multiple uses.

Response: The final rule does not include this type of guidance as it is more appropriate in the Agency's directives, because methods, models, and indicators will alter over time. Forest Service directives will be developed for the final rule, and members of the public will have the opportunity to comment on them. In addition, economic information and models represent one kind of best available scientific information that the responsible official must use to inform the planning process and plan components.

Comment: Identification of those providing multiple use information. Some respondents felt the rule should specify who should be included to provide information about multiple uses.

Response: Section 219.4 of the final rule requires the responsible official to provide opportunities for public participation in all phases of the planning framework. Section 219.3 requires the identification and use of the best available scientific information to inform the planning process. Section 219.6 requires identifying and evaluating existing information relevant to the plan area, including with regard to multiple uses. Monitoring will also provide information about multiple uses. Communities, groups, or individuals interested in these issues can provide input on plan components for multiple uses by becoming engaged in the public participation process required under this section.

Comment: Specific objectives, prohibitions, and inclusion of specific multiple uses and ecosystem services. Several respondents felt the final rule should establish specific objectives for resources and prohibitions of uses. Several respondents requested that the rule include specific uses. Some respondents were for and others against a rule requirement for specific ecosystem services. Some respondents felt the rule provides the responsible official with too much discretion over multiple uses and instead should prioritize multiple uses or require inclusion of specific multiple uses. Some respondents felt it was unclear if multiple uses listed in proposed § 219.10 would have priority over those not listed.

Response: The final rule recognizes that conditions on each plan area will vary. The final rule therefore focuses on providing a framework for sustainability and integrated resource management and requiring associated plan components, including standards and guidelines. Objectives for resources and constraints on uses will be established by the responsible official in the plans themselves, or in the subsequent decisions regarding projects and activities. Agency regulations at 36 CFR part 261 establish certain national prohibitions. The final rule provides a planning framework to be used on all units in the NFS. As part of the planning process, the final rule includes direction for the responsible official to identify, evaluate, and consider all relevant resources when developing plan components for ecosystem services and multiple uses. Section 219.6 includes general direction to identify and evaluate existing relevant information for ecosystem services and multiple uses, in addition to direction to identify and evaluate information about specific resources and uses such as air, soil, water, and recreation. Section 219.7 includes direction to develop a list of relevant resources as part of the plan revision or development process, building on the assessment and any additional information developed in the planning process. Sections 219.8–219.11 include requirements for some specific resources, in addition to the requirement in § 219.10(a) to consider all relevant resources and uses in developing plan components. Throughout, the responsible official will use the best available scientific information, and will be informed by public participation.

The final rule does not prioritize multiple uses; rather, it requires the responsible official to provide plan components for integrated resource management, based on the resources and uses relevant to the plan area. Specific direction or guidance for specific uses will be included in the Forest Service Directives System, the plans themselves, and/or in the subsequent decisions regarding projects and activities.

Comment: Mineral exploration and development. Some respondents felt that the Forest Service should establish specific, detailed requirements to address mining of mineral resources on NFS lands while some respondents felt the Forest Service fails to address delays and impediments to mineral exploration and development caused by the failure of the rule to address minerals consistent with applicable statutes.

Response: The planning rule does not impose requirements that would create inconsistencies with existing laws or regulations governing mineral exploration and development on Federal lands. Plans developed under the final rule must comply with all applicable laws and regulations (§ 219.1(f)). It is not expected that the rule will cause delays or impede mineral exploration and development on NFS units. Section 219.10(a) specifically recognizes mineral resources and directs the responsible official to consider mineral resources when developing plan components for integrated resource management for multiple use and sustained yield under the MUSYA. In addition, § 219.8 requires the responsible official take into account multiple uses that contribute to the local, regional or national economies.

Comment: Relationship of livestock grazing with ecological sustainability and other uses. Some respondents felt range resource activities should not be supported in the rule, while others felt it should be supported. Some respondents felt the rule should include more specific direction for livestock grazing.

Response: The final rule sets the stage for a planning process that is responsive to the multiple use desires and needs of present and future generations of Americans. Rangeland ecosystems are part of many units, and the MUSYA specifically provides that range is one of the multiple uses for which the national forests are managed. The appropriate level of grazing on a unit or other direction regarding range use in the plan area is best determined in individual plans and at the site-specific level, so that direction is appropriate to the conditions in the plan area.

Comment: Game species. Some respondents felt the rule should include requirements for species that are hunted, fished, or trapped, including recognition of their social and economic importance to sportsman, photographers, and other enthusiasts who enjoy viewing all wildlife. Several Indian Tribes and State game and fish departments said that certain species play a special role in contributing to social, cultural, and economic sustainability, and that plans should consider habitat for those species beyond what is required to provide diversity.

Response: The Agency recognizes the important role of NFS lands in providing the habitat for these species. Plan components designed to meet the ecosystem integrity and ecosystem diversity requirements of § 219.9, along with additional components where needed if the species is in the categories listed in § 219.9(b), will provide the habitat and other ecological conditions necessary to support these species.

Sections 219.6, 219.8 and 219.12 also recognize the importance of outdoor recreation opportunities and uses, including hunting and fishing. In addition, section 219.10 of the final rule retains the provision of the proposed rule that specifically requires consideration of habitat conditions for wildlife, fish, and plants commonly enjoyed and used by the public for hunting, fishing, trapping, gathering, observing, and subsistence. The final rule adds a provision that such consideration is to be done in collaboration with federally recognized Tribes, Alaska Native Corporations, other Federal agencies, and State and local governments. This addition, combined with the requirements of §§ 219.4 and 219.6, should ensure appropriate consideration is given to species of importance to these groups and entities. The final rule is not intended to require that units maintain ecological conditions that meet all population goals of State agencies.

Comment: Recreational priority and opportunities. Several respondents felt recreation and its relationship with ecological sustainability deserves greater importance in the rule, including discussion of specific recreational opportunities under a separate section. Other respondents felt more specific requirements for recreational activities and opportunities should be included in the rule. Some respondents felt it was inappropriate to include recreational facilities with transportation and utility corridors as examples of infrastructure.

Response: The final rule recognizes the importance of recreation, both for its contributions to economic and social sustainability, and as an important use connecting people to the land. The high value placed on recreation has been a common theme throughout the public participation process leading to this final rule. Americans make over 170 million visits to national forests and grasslands each year. These visits provide an important contribution to the economic vitality of rural communities as spending by recreation visitors in areas surrounding national forests amounts to nearly 13 billion dollars annually. Recreation is also a critical part of social sustainability, connecting people to nature, providing for outdoor activities that promote long-term physical and mental health, enhancing the American public's understanding of their natural and cultural environments, and catalyzing their participation and stewardship of the natural world. Providing for sustainable recreation is one of the biggest challenges and opportunities facing the Forest Service, and land management planning is a critical process in meeting this need.

The final rule provides direction for sustainable recreation throughout the planning process. The final rule retains the term "sustainable recreation" to recognize that planning should identify, evaluate, and provide a set of recreational settings, opportunities and access for a range of uses, recognizing the need for that set to be sustainable over time. Ecosystem services include "cultural services" such as recreational experiences, and social sustainability recognizes the activities and traditions that connect people to the land. The rule recognizes and states in § 219.10 and the definition section in § 219.19 that recreational opportunities include non-motorized, motorized, developed, and dispersed recreation on land, water, and in the air. Examples include activities such as hiking, biking, hunting, fishing, horseback riding, skiing, off-highway vehicle use, camping, picnicking, bird and other wildlife watching, canoeing, kayaking, geocaching, recreational aviation, hang gliding, and many more. A detailed list was not included in § 219.10 so as not to inadvertently leave a recreation use out, and also in recognition that new recreational uses are always being developed.

In the assessment phase (§ 219.6), the responsible official must identify and evaluate existing information relevant to recreation settings, opportunities, and access, in addition to recreational infrastructure, benefits people obtain from the plan area and the contribution of multiple uses to the local, regional, and national economies. Section 219.8 requires the responsible official to take sustainable recreation and scenic character into account when developing plan components to contribute to social and economic sustainability.

Section 219.10 requires plan components to provide for multiple uses including outdoor recreation. In paragraph (a), responsible officials must consider aesthetic values, ecosystem services, recreation settings and opportunities, and habitat conditions specifically for species used and enjoyed by the public for recreational opportunities such as hunting, fishing, and wildlife observation. Responsible officials must also consider placement and management of infrastructure, including recreational facilities. It is appropriate to refer to such facilities as infrastructure because recreational facilities are fixed capital installations that enhance recreational experiences. These facilities include: campgrounds, roads, trails, backcountry airstrips, and drinking water and wastewater infrastructure. In paragraph (b), the final rule requires that plan revisions and new plans include plan components to provide for sustainable recreation; including recreation settings, opportunities, access; and scenic character. Section 219.12 requires monitoring for visitor use and progress toward meeting recreational objectives.

These requirements are in response to public comment and in recognition of the importance of recreation.

Comment: Objectives, standards and guidelines for sustainable recreation. Several respondents felt the rule should require the plan to identify objectives, standards and guidelines for sustainable recreation. A respondent felt the rule should use the term "must" instead of "should" with respect to identifying recreational settings, and desired conditions for scenic landscape character. Some respondents felt the proposed rule provision that the plan should identify desired conditions for "scenic landscape character" was too narrow; others felt it expanded Agency authorities beyond legal mandates.

Response: The requirement in § 219.10(b)(1)(i) is changed in the final rule; where the proposed rule provided that the plan "should identify recreational settings and desired conditions for scenic landscape character," the final rule requires that a new plan or plan revision must include plan components, including standards or guidelines, to provide for sustainable recreation; including recreation settings, opportunities, and access; and scenic character. The term "landscape character" in proposed § 219.19 has been replaced in the final rule with "scenic character" to clarify what resource is being considered. The scenic resource falls under the Agency's multiple use and sustained yield mandate. "Landscape character" in the proposed rule was defined in terms of visual and cultural identity; "scenic character" is defined in the final rule in terms of scenic identity.

Comment: Use of land allocations. Some respondents felt the rule should require land allocations to allow the Agency to establish a recreation zoning system.

Response: Section 219.7(d) of the final rule requires management areas or geographic areas in every plan. A plan could include management areas based on recreation settings and opportunities.

Comment: Preservation easement. A respondent expressed concern the Agency is considering putting grazing allotments under a "preservation easement."

Response: "Preservation easements" were not proposed for inclusion in the

planning rule and are not included in the final rule.

Comment: Protection of cultural and historic resources. Several respondents felt the proposed rule would allow responsible officials to damage or destroy cultural and historic resources if done for the purpose of achieving other resources objectives. Some respondents felt specific direction for management of cultural and historic resources and uses should be added to the rule. Some respondents suggested that § 219.10(b)(1)(ii) include protection of the "uses" and "cultural landscapes." Other respondents felt the rule should establish priorities between cultural and historic resources and other resource objectives.

Response: The Department considers cultural and historic resources to be very important for social sustainability as well as important economic contributors. Benefits of cultural and historic sites include: expanded knowledge and understanding of history; cultural and spiritual connections to our heritage; scientific data about past cultures or historical conditions and similar matters; and tourism that benefits rural economies. The final rule provides direction for cultural and historic resources throughout the planning process. The assessment phase requires identifying and evaluating information about cultural and historic resources and uses and areas of Tribal importance, in addition to ecosystem services, which include "cultural services." Section 219.8 also requires the responsible official to take cultural and historic resources on the plan area into account when developing plan components to contribute to economic sustainability and social sustainability, which includes the traditions and culture that connect people to the land.

In § 219.10, paragraph (a) requires that the responsible official consider cultural and heritage resources, habitat conditions for species used and enjoyed by the public, and opportunities to connect people with nature, when developing plan components for integrated resource management to provide for ecosystem services and multiple uses, which include cultural and historic resources and uses. Paragraph (b) retains the requirement of the proposed rule that plan components must provide for the protection of cultural and historic resources. The use of the word "protect" is to ensure that the responsible official takes into account the effect a plan may have on cultural and historic values and provide for these resources, within the context of managing for multiple use purposes. It does not create a preservation mandate, but where actions might impair the resources or use, the Department expects that the responsible official would seek to avoid or minimize potential harm by following established procedures for cultural and historic resource management. The rule does not remove or change Agency obligations to meet the National Historic Preservation Act and other laws and Executive orders for the protection of these resources.

The final rule does not include more specific direction for cultural and historic uses or activities and does not establish priorities among the multiple uses. Additional process requirements and guidance are more appropriately located in Agency directives, land management plans, and projects or activities.

Comment: Non-Tribal indigenous rights. Several respondents stated the final rule should address the management of areas of importance for non-Tribal indigenous entities with pre-existing cultural and natural resources access, maintenance and use rights based on historical and documented claims to lands now managed by the Forest Service.

Response: Section 219.1(d) of the final rule states that the planning rule "does not affect treaty rights or valid existing rights established by statute or legal instruments." Section 219.4(a) of the final rule requires the responsible official to provide opportunities for public participation, during which non-Tribal indigenous entities can inform the responsible official of areas of importance to them. Section 219.6(a)(1) requires the responsible official to identify and consider, "relevant information, including local knowledge," and to identify areas of Tribal importance, as well as cultural and historic resources and uses. Section 219.10 requires plan components to provide for management of areas of Tribal importance. Specific issues of access and use will be addressed at the levels of unit planning or project or activity planning.

Comment: Spiritual sustenance. Some respondents felt the rule should not provide for spiritual sustenance, because there is no legal mandate for doing it. A respondent stated that the First Amendment prohibits "making of any law respecting an establishment of religion."

Response: Plans are not required to provide for spiritual sustenance. The final rule recognizes in § 219.1(c) and in the definition of "ecosystem services" that spiritual values is one of the benefits people derive from the NFS. To contribute to social and economic sustainability, plans must provide for ecosystem services and multiple uses as provided in this section. Managing NFS lands and resources such that they provide opportunities for spiritual benefits does not establish a religion, and no preference is given to one religion over another.

Comment: Management of wilderness areas and areas recommended for wilderness designation. Some respondents felt the rule should ensure wilderness protection is not extended to recommended wilderness areas so de facto wilderness areas are not created by the Agency. Some respondents felt the rule should address activities affecting designated wilderness areas or with the potential to degrade areas recommended for wilderness and reduce their potential for designation. One respondent states the rule should include wilderness management direction parallel to the Wilderness Act wording. Another respondent felt the rule should provide wilderness management flexibility to respond to changing conditions.

Response: Wilderness areas provide important places for recreation, solitude, and renewal; are refuges for species; and can attract tourism that benefits rural economies. Section 219.1 of the final rule states plans must comply with all applicable laws and regulations, including the Wilderness Act. The Department changed the wording of § 219.10(b)(iv) of the final rule from "protection of wilderness areas as well as the protection of recommended wilderness areas to protect the ecologic and social values and character for which they might be added to the National Wilderness System," in the proposed rule to "protection of congressionally designated wilderness areas as well as management of areas recommended for wilderness designation to protect and maintain the ecological and social characteristics that provide the basis for their suitability for wilderness designation." The changes were made to increase clarity and better reflect the Department's intent from the proposed rule. This requirement, in addition to related requirements in §§ 219.6, 219.7, and 219.10(a)(1), reflect the Agency's responsibilities under the Wilderness Act and are consistent with the recognition in the MUSYA that wilderness is consistent with its purposes and provisions.

The protection of designated wilderness areas is a requirement of law. Management of areas recommended for wilderness designation to protect and maintain the characteristics that provide the basis for

their suitability for designation is lawful and within the Agency's authority. In fact, many State wilderness acts require that any areas recommended for wilderness designation are to be managed for the purpose of protecting the area's suitability for wilderness. The Utah Wilderness Act of 1984 is one example (Pub. L. 98–428. § 201(b)(4); 98 Stat 1660).

The Department believes the requirement in the final rule meets the Agency's intent to ensure that the types and levels of use allowed would maintain wilderness character and would not preclude future designation as wilderness. Specific direction regarding incompatible uses in recommended wilderness areas will be found in the Forest Service Directives System and in plans themselves.

Comment: Responsible official discretion to recommend areas for wilderness designation. Some respondents felt the proposed rule provides the responsible official with too much discretion about evaluations for, determinations of, and management of areas recommended for wilderness designation.

Response: Section 219.7 of the final rule was modified to require the identification and evaluation of areas that may be suitable for inclusion in the National Wilderness Preservation System. Public input during the opportunities for public participation will help the responsible official determine whether to recommend any such areas for wilderness designation. State wilderness acts, typically require the Forest Service to review the wilderness option of areas during plan revision. The Utah Wilderness Act of 1984 is one example (Pub. L. 98–428. § 201(b)(2); 98 Stat. 1659). The responsible official's recommendation in a plan is not the President's recommendation to Congress. So, the recommendation is not necessarily what is recommended to Congress. The Agency's process for identifying and evaluating areas for recommendation is established in the Forest Service Directives System in the Forest Service Handbook 1909.12, which will be revised and made available for public comment. Specific direction and requirements for management of wilderness areas are also included in the Forest Service Directives System, and are in the process of being revised and put out for public comment.

Comment: Wilderness designation. Several respondents felt that the Agency should increase wilderness areas, while others felt that the Agency should reduce wilderness areas.

Response: Only Congress has the authority to designate wilderness areas or change the boundaries of designated wilderness areas, under the Wilderness Act of 1964. Wilderness areas provide a number of benefits, and the MUSYA recognizes wilderness as consistent with its multiple use purposes and provisions. The responsible official will determine whether or not to recommend any new areas for designation as part of the planning process.

Comment: Wild and scenic river protection. Some respondents supported protection of rivers not designated as a wild and scenic river, while others did not. One respondent commented that proposed § 219.10(b)(1)(v) provides protection for only eligible rivers.

Response: The final rule has been changed to include suitable rivers in § 219.10(b)(1)(v). The Wild and Scenic Rivers Act requires "every wild, scenic, or recreational river in its free-flowing condition, or upon restoration to this condition, shall be considered eligible for inclusion in the national wild and scenic river system." To be eligible for inclusion, a river must be free-flowing and, with its adjacent land area, possess one or more "outstandingly remarkable" values. The determination of eligibility is an assessment that does not require a decision or approval document, although the results of this inventory need to be documented as a part of the plan document or plan set of documents.

Once a river is determined to be eligible, a suitability study gives the basis for determining which rivers to recommend to Congress as potential additions to the National Wild and Scenic Rivers System (National System). Therefore, the Department decided it is appropriate and consistent with the Act for the Agency to protect rivers determined to be suitable until Congress decides on designation and those eligible until the Agency determines if the rivers are suitable for the values for which they may be included in the national wild and scenic river system.

Comment: Special designations. Some respondents felt the rule should provide for special designations including a comprehensive list of designated or recommended special areas. Several respondents felt the rule should include specific procedures for identifying areas for special designation. A respondent felt the rule should provide the responsible official the opportunity to designate special areas.

Response: The Agency manages many kinds of designated areas in addition to wilderness areas and wild and scenic rivers, including experimental forests, national heritage areas, national monuments, national recreational areas, national scenic trails, research natural areas, and scenic byways. These areas can contribute in important ways to social and economic sustainability as well as ecologic sustainability.

The definition of designated areas in § 219.19 has been modified so that it is clear that designated areas may be established in the land management planning process or by a separate process by statute or by an administrative process in accord with NEPA requirements and other applicable laws. Section 219.7(c)(2) has been modified to make clear that responsible officials may designate an area if they have the delegated authority to do so. Section 219.10(b)(1)(vi) of the final rule requires plan components to provide for the "appropriate management of other designated or recommended special areas in the plan area, including research natural areas." Specific guidance on designation procedures is more appropriate for the Agency's directives, and is not found in the rule.

Section 219.11—Timber Requirements Based on the NFMA

This section of the final rule includes provisions for identifying lands as not suitable for timber production and for limitations on timber harvest. This section meets the statutory requirements of the NFMA related to management of the timber resource. The NFMA, along with the requirements of this section, would provide for mitigation of the effects of timber harvest on other resources and multiple uses. Other sections of the final rule contain provisions that supplement the requirements of this section.

Timber is one of the multiple use purposes of the NFS, as recognized by the MUSYA and the Act of 1897, also known as the Organic Administration Act. Timber is also recognized by § 219.10 of this subpart. The National Forest Management Act of 1976 signaled a new direction for the planning and management of NFS lands, especially with regard to management of the timber resource and impacts to other resources. Management and use of timber harvest on NFS lands continues to evolve. Today, harvest of timber on NFS lands occurs for many different reasons, including ecological restoration, community protection in wildland urban interfaces, habitat restoration, and protection of municipal water supplies. Timber harvest also supports economic sustainability through the production of timber, pulp for paper, specialty woods for furniture, and fuel for small-scale renewable

energy projects. Timber harvesting, whether for restoration or wood production objectives, also supports employment and provides payments in lieu of taxes in many counties throughout the country.

This final rule provides the guidance for developing plans, not guidance for individual projects, and it is important to recognize that any individual timber project or activity could not provide for all aspects of social, economic, or ecological sustainability. However, all projects and activities must be consistent with the plan components in the plan, including those developed to meet the requirements of sustainability, diversity, multiple use, and timber (§§ 219.8 through 219.11), as required by § 219.15.

Section 219.11—Response to Comments

Many concerns were raised over direction for timber harvest for purposes other than timber production, responsible official discretion in determining timber harvest on lands not suited for timber production, and suitability of lands for timber production. For clarity, the Department modified this section from the wording of the proposed rule.

In the opening paragraph of this section, the Department removed the phrase "the plan must provide for multiple uses and ecosystem services including timber" because that requirement is found in § 219.10 and replaced that phrase with the words "the plan must include plan components, including standards or guidelines, and other plan content regarding timber management" to more accurately reflect the requirements of this section. The Department changed the term "capability" to "inherent capability" to be consistent with other sections of this subpart. The Department defines the term inherent capability in § 219.19. The Department removed the term "fiscal capability" from this section. Fiscal capability is now discussed in § 219.1 and is an overarching consideration throughout the planning process, rather than being pointed out for only selected portions of the planning process. Other minor wording changes were made for clarity.

Paragraph (a) has a new caption of "Lands not suited for timber production." In paragraph (a)(1) of this section, in the discussion of identifying lands not suitable for timber production, the Department removed the sentence "The responsible official may determine, considering physical, economic, and other pertinent factors, that lands are not suitable for timber production." The Department removed this sentence about factors because the criteria at paragraphs (a)(1)(i) through (a)(1)(vi) are the physical, economic, and other pertinent factors to deal with the requirements of the statute (16 U.S.C. 1604(k)), and include the consideration of other desired conditions and objectives in the plan. In particular, paragraph (a)(1)(iii) of this section deals with the economic factors as the responsible official develops desired conditions to provide for social, economic, and ecological sustainability (§§ 219.8–219.11).

The provision discussing the 10-year review of lands not suitable for timber production that was in paragraph (a) of the proposed rule has been removed from paragraph (a)(1) and moved to modified paragraph (a)(2) of this section.

The specific factors in paragraph (a) for identifying lands not suitable for timber production are based on the NFMA requirements limiting timber harvest (16 U.S.C. 1604(g)(3)(E)) and the Agency policy. Paragraph (a)(1)(iv) of this section contains a specific criterion that would not allow lands to be identified as suitable for timber production unless technology is currently available for conducting timber harvest without causing irreversible damage to soil, slope, or other watershed conditions. Available technology may vary from place to place, and could be, for example: horse logging, ground based skidding, aerial systems, or cable logging systems. This provision has been in place since the 1979 rule, to meet the NFMA obligation to consider physical factors to determine the suitability of lands for timber production. The factor has been effective in protecting watershed conditions. However, the Department removed the words "or substantial and permanent impairment of the productivity of the land" from paragraph (a)(1)(iv) in the final rule because it caused confusion and the Department's intent was captured by the remaining term "irreversible damage to soil, slope, or watershed conditions."

Paragraph (a)(2) of this section now discusses the requirements of the 10-year review of lands not suitable for timber production. This paragraph combines and modifies discussions from paragraph (a)(1) and paragraph (a)(3) of the proposed rule for clarity.

Paragraph (a)(2) of the proposed rule has been modified and redesignated as paragraph (b) with a new caption of "Timber harvest for the purposes of timber production." The Department removed the wording of the proposed rule about lands which are not identified in the plan as "not suitable" for timber production are suited for timber production because some respondents believed this required the designation of these lands as suitable for timber production, which was not the Department's intent. In addition, the Department added a requirement in paragraph (b) of this section to clarify that where a plan identifies lands as suitable for timber production the plan must include plan components to guide timber harvest for timber production or for other multiple purposes on such lands.

Modified paragraph (c) of this section combined provisions from paragraph (b)(2) and paragraph (c) of the proposed rule. Paragraph (c) has a new caption of "timber harvest for purposes other than timber production."

Paragraph (c) of this section sets forth that the plan may include plan components to allow for timber harvest for purposes other than timber production as a tool to assist in achieving or maintaining one or more applicable desired condition(s) or objective(s) of the plan in order to protect other multiple-use values, and for salvage, sanitation, or public health or safety. The wording "in order to protect other multiple-use values" was added for consistency with the intent of the NFMA, which allows for timber harvest "necessitated to protect * * * multiple use values" other than timber production on lands not suited for timber production (16 U.S.C. 1604(k)). The wording of this paragraph also reflects longstanding Agency practices of using timber harvest to protect other multiple use values and public health and safety in areas not suited for timber production.

In modified paragraph (d) of this section, the rule discusses the limitations on timber harvest based on statutory requirements, incorporating and modifying wording from the paragraphs (b)(1) and (d) of this section of the proposed rule. Paragraph (d)(1) of this section in the final rule states the same requirement as paragraph (b)(1) of the proposed rule.

At paragraph (d)(2) in this section, the rule includes the provision that plan components shall ensure timber harvest would occur only where soil, slope, or other watershed conditions would not cause irreversible damage, which is a requirement of NFMA (16 U.S.C. 1604(g)(3)(E)(i)); the proposed rule (at paragraph (d)(1)) included a citation to this part of NFMA, therefore this change does not add a new requirement.

Paragraph (d)(3) of this section includes the same requirement as paragraph (d)(2) of the proposed rule.

In paragraphs (d)(4)(i) through (d)(4)(iii) of this section, the rule directs that plan components must ensure that plans include size limits for regeneration of even-aged stand of trees in one harvest operation. The rule retains wording of paragraphs (d)(3), (d)(3)(i), (d)(3)(ii), and (d)(3)(iii) of the proposed rule, with minor changes for clarity. The changes include: (1) Clarifying what the plan may or may not provide, rather than set out a prohibition on projects; (2) the term "areas to be cut in one harvest operation" has been replaced with "openings that may be cut in one harvest operation;" and (3) the discretion for plans to exceed the default maximum size of paragraph (d)(3)(i) of the proposed rule has been changed from "Cut openings larger than those specified may be permitted where larger units will produce a more desirable combination of benefits" to "Plan standards may allow for openings larger than those specified in paragraph (d)(4) of this section to be cut in one harvest operation where the responsible official determines that larger harvest openings are necessary to help achieve desired ecological conditions in the plan area." These changes in wording from the proposed to the final rule are not changes in requirements, but simply clarify the Department's intent.

In paragraph (d)(5) of this section, the rule directs that plan components must ensure that timber will be harvested only where the harvest complies with resource protection requirements of the NFMA. Paragraph (d)(5) is a modification of paragraph (d)(1) of the proposed rule and this modification is not a change in requirements. These requirements reference the provisions of NFMA to limit harvest to situations where the productivity of the land could be sustained and harvesting prescriptions are appropriately applied. For example, by referencing NFMA paragraph (d)(5) requires plan components for even-aged timber harvest that: (1) Limit clearcutting to locations where it is determined to be the optimum method for regenerating the site; (2) require interdisciplinary review of the harvest proposal; and (3) require cutting to be blended with the natural terrain. These requirements are referenced but not repeated in the final rule because the Department believes they are incorporated and enhanced by the requirements for resource protection in other sections of the rule and plan consistency requirements of § 219.15. In addition, some requirements are not repeated because they are addressed by other regulations; for example, the NEPA regulations direct environmental analysis and the use of interdisciplinary teams.

In paragraph (d)(6) of this section, the rule directs that plan components must set forth the limit on the quantity of timber that may be sold in the national forest. The Department modified the wording of paragraph (d)(4) of the proposed rule, and moved the provision to paragraph (d)(6) of the final rule as follows:

(1) The proposed rule required plan components to limit the quantity of timber that can be removed annually in perpetuity on a sustained-yield basis. The final rule says plan components must ensure the quantity of timber that may be sold from the national forest is limited to an amount equal to or less than that which can be removed from such forest annually in perpetuity on a sustained-yield basis. This change was made to agree with the NFMA wording.

(2) The Department added a sentence that this limit may be measured on a decadal basis to reflect the Agency practice, and 16 U.S.C. 1611. Note that under this paragraph the quantity sold in any given year may exceed the annual average for the decade, but the total quantity sold over a 10-year period may not exceed the decadal limit.

(3) The Department changed the provision that required the plan to "provide for departure from the limit, as provided by NFMA" to "The plan may provide for departures from this limit as provided by the NFMA where departure would be consistent with the plan's desired conditions and objectives."

(4) The Department added that exceptions for departure from this limit on the quantity sold must be made with a public review and comment period of at least 90 days, to be consistent with the NFMA.

The Department concludes that these changes in wording at revised paragraphs (d)(6) of this section clarify the Department's intent and reflect the requirements of the NFMA.

In paragraph (d)(7) of this section, the rule directs that plan components must ensure that the regeneration harvest of even-aged stands of trees is limited to stands that generally have reached the culmination of mean annual increment of growth (CMAI). The Department retains the wording of paragraphs (d)(5) of the proposed rule, with minor changes for clarity. The changes include: Changing the provision that "Exceptions, set out in 16 U.S.C. 1604(m), are permitted only if consistent with the land management plan" to "Plan components may allow for exceptions, set out in 16 U.S.C. 1604(m), only if such harvest is consistent with other plan components of the land management plan." The Department removed the provision of the proposed rule at paragraph (d)(5) that stated: "If such exceptions are anticipated, the responsible official should include those exceptions in the land management plan as standards or guidelines" because it is now redundant with the sentence "Plan components may allow for exceptions * * *." The Department removed the provision about directives and CMAI, because that sentence is redundant with the provision at § 219.2(b)(5)(i) requiring Forest Service directives. These modifications at revised paragraphs (d)(7) of this section are not changes in requirements but clarify the Department's intent and reduce redundancy.

Comment: Timber harvest for other purposes. Some respondents felt the proposed rule at § 219.11(b)(2) was either too discretionary or too restrictive in meeting NFMA's allowance for salvage sales and other limited timber harvest on lands not suited for timber production. Some respondents felt the proposed rule should prohibit timber harvesting on unsuitable lands or specify that timber salvage on those lands be solely for non-commercial purposes.

Response: Today, timber harvest is often used to achieve ecological conditions and other multiple use benefits for purposes other than timber production. Therefore, the Department clarified at § 219.11(c) that a plan may include plan components to allow for timber harvest for purposes other than timber production as a tool to assist in achieving or maintaining one or more applicable desired conditions or objectives of the plan to protect other multiple-use values. Consistent with Section 1604(k) of NFMA, § 219.11(c) of the proposed rule also allows timber harvest for salvage, sanitation or public health or safety in areas not suitable for timber production. The Department believes that the provisions of this section provide a balanced approach recognizing that timber harvest will be necessary in many places to assist the Agency in accomplishing restoration and other multiple use objectives.

Section 219.11(d)(1) of the final rule restates the prohibition that had been in the proposed rule at 219.11(b)(1), that no harvest for the purpose of timber production may occur on lands not suitable for timber production. The final rule at § 219.11(d) also requires plan components to ensure no timber harvest may occur on lands where timber harvest would cause irreversible damage to soil, slope, or other watershed

conditions. Timber harvest must be consistent with the desired conditions set out in the plan (§ 219.15).

Comment: Responsible official discretion in determining timber harvest on lands not suited for timber production. Some respondents felt the proposed rule allows the responsible official too much discretion in allowing or permitting timber harvesting on lands not suited for timber production.

Response: This section, as well as other sections of the rule, provides sideboards to the responsible official's discretion. The rule identifies factors to be considered by the responsible official in paragraph (c) of this section consistent with the NFMA, specific limitations that require standards or guidelines for timber harvest, and consistency with other applicable plan components.

Section 219.3 of the rule requires the responsible official to use the best available scientific information. The rule also allows those interested communities, groups, or persons to engage in the public participation process for the development of plan components and monitoring programs and for the subsequent development of proposed projects and activities under the plan. Individual proposed projects for timber harvesting will still undergo additional opportunities for public involvement during the project's NEPA process. The Department believes that these requirements provide an appropriate balance of requirements and discretion.

Comment: Suitability of lands with a primary conservation focus. A respondent felt the rule should state that timber production is not suitable on lands managed with a primary conservation or restoration focus, including inventoried roadless areas, old-growth forests, priority and municipal watersheds, and riparian areas.

Response: The proposed rule provides overall direction for how plans are developed, revised, and amended. Section 219.11(a)(1)(iii) requires that where timber production would not be compatible with desired conditions and objectives established by the plan, including those established in accordance with the requirements for suitability (§ 219.8), diversity (§ 219.9), and multiple use (§ 219.10), the responsible official shall identify such lands as not suitable for timber production. Additional guidance regarding suitability of lands will be found in the plans themselves, or in the subsequent decisions regarding projects and activities on a particular national forest, grassland, prairie, or other comparable administrative unit. The rule also allows those interested communities, groups, or persons to engage in the public participation process for the development of plans. Public participation will also be used during the subsequent development of proposed projects and activities under the plan, during which concerns regarding suitability of lands may be raised.

Comment: Cost and revenues of timber harvesting. Some respondents felt the rule should require full and explicit disclosure of costs and benefits of timber harvesting in order for the public to more accurately compare plan alternatives and plan components. They felt timber harvesting should only be allowed where direct revenues will exceed all direct costs, and lands not cost-efficient should be designated unsuitable. Some felt the Government should not subsidize the logging industry or compete against private timber forest owners.

Response: The costs and benefits of each alternative for a plan developed under the final rule is required to be disclosed under the NEPA process at the time of plan development, revision, or (if relevant) amendment. The Department recognizes that the cost of timber harvest is a major concern. The real measure of the worth of the timber program; however, is not net cost versus revenues, but costs versus public benefits. The final rule requires plan components for restoration which will likely result in projects to achieve multiple benefits. Some of these benefits can be measured as receipts; others are public benefits for which revenues are not received, such as restored watersheds; improved wildlife habitat; and improved bird watching, fishing, and hunting opportunities. The emphasis of the final rule is sustainability; and managing vegetation can help attain sustainability. Selling timber and managing vegetation is a key tool for restoration and providing wildlife habitat (cover types and age classes), creating diversity in the visual appearance of the landscape, improving the overall ecological integrity, producing timber products, providing jobs, and providing additional recreational opportunities by increasing forest access. Increasingly, the Agency uses stewardship contracts to offer projects to achieve multiple objectives including harvesting timber for restoration purposes.

For lands to be identified in the plan as suitable for timber production, timber production on those lands must be compatible with the achievement of the desired conditions and objectives established by the plan. The desired conditions include those to meet requirements for plan development or revision (§ 219.7); social, economic, and ecological sustainability (§ 219.8); plant and animal diversity (§ 219.9); multiple use (§ 219.10); and timber (§ 219.11). The responsible official will establish management areas with different desired conditions based on providing social, economic, and ecological sustainability. This suitability determination is complex and will be based on analysis of costs, benefits, and values.

Additional rule requirements for a detailed analysis of costs and benefits other than the final rule requirement for an EIS for plan development and plan revision and that plans be amended to be consistent with Forest Service NEPA procedures are not necessary.

Comment: Review of lands suitable for timber production. A respondent felt lands suitable and not suitable for timber production should be reviewed every 10 years to ensure these designations are still appropriate. A respondent said the proposed rule has incorrectly expanded and interpreted the base requirements of the NFMA by: (1) falsely stating that the NFMA requires the identification of lands suitable for timber production (the respondent declared that the NFMA only requires identification of land not suited for timber production); and (2) stating that all lands not identified as not suitable are therefore suitable.

Response: The NFMA requires a review of lands designated not suitable every 10 years, and the rule follows this mandate. The rule requires identification of land not suited for timber production and imposes specific factors to be considered. The purpose of identifying lands not suitable for timber production is to identify the land base upon which timber production harvest levels are subsequently calculated (lands suitable for timber production). To avoid confusion, the provision saying that "all lands not identified in the plan as not suitable for timber production are suited for timber production" has been removed from the final rule. The Department believes the respondent's assumption behind this comment is that all lands except those determined to be not suitable will be harvested. That is not the Agency's expectation. The identification of lands suitable for timber production is not a final decision compelling or approving projects and activities. A final determination of suitability is made through project and activity decisionmaking.

Comment: Aesthetic resources. A respondent felt "aesthetic resources" should be removed from proposed § 219.11(d)(2) wording because timber harvesting can create less appealing aesthetics but can be an integral part of sustaining high quality wildlife habitat.

Response: The final rule retains the wording of the proposed rule at § 219.11(d) ensuring timber harvesting is consistent with protection of aesthetic resources, because the wording matches the NFMA at 16 U.S.C. 1604(g)(3)(F)(v). However, the Department recognizes that selling timber and managing vegetation are important tools for providing wildlife habitat (cover types and age classes), creating diversity in the visual appearance of the landscape, and improving the overall forest health.

Comment: Allowable sale quantity. A respondent felt the planning rule should include a requirement for allowable sale quantity as in the 1982 rule.

Response: Section 219.11 includes timber requirements based on the NFMA. The term "allowable sale quantity" (ASQ) is a term of art of the 1982 rule. The term ASQ is used in the NFMA in discussions about departures that exceed the quantity of timber that may be sold from the national forest (16 U.S.C. 1611). However, the NFMA does not require that the term be used in the implementing regulations (16 U.S.C. 1604). The term has caused confusion about whether ASQ is a target or an upper limit under the 1982 rule procedures, the Agency wants to avoid this confusion under this final rule. Plans will have an upper limit for timber harvest for the quantity of timber sold as required in § 219.11(d)(6). The requirements in § 219.7(f) that plan content must include information about the planned timber sale program and timber harvesting levels, and in § 219.11(d)(6) that the plan must limit the quantity of timber that may be sold from the national forest to that which can be removed annually in perpetuity on a sustained-yield basis, provide a more practicable way to give direction than using the term "ASQ." Additional requirements will be found in the Forest Service Directive System.

Comment: Changing plan harvest levels relationship with plan amendments. A respondent felt changing the timber harvesting level specified in the unit plan should be done through a revision or amendment of the unit plan because timber harvesting is an important objective.

Response: Any change to plan components related to timber harvesting level requires a plan amendment under this final rule. Such plan components may include objectives for annual timber harvest or standards limiting the amount of timber harvested in the first decade. However, changing the tables or graphs of associated timber information in other plan content (§ 219.7(f)) may be done with an administrative change.

Comment: Levels of timber harvest. A respondent felt the rule should require forest plans to identify three timber production levels. Those three levels were: (1) The long-term sustained-yield capacity, which is the theoretical maximum sustainable level in perpetuity; (2) the timber harvest level associated with achieving the desired future conditions contemplated in the plan; and (3) the probable timber harvest level given anticipated budgets and other priorities.

Response: Final rule §§ 219.7(f) and 219.11(d)(6) require determination of the long-term sustained-yield capacity (the quantity of timber that may be sold from the national forest) and require determination of the planned timber sale program. A requirement for the timber harvest level associated with achieving the desired future conditions is not included because the NFMA does not require such a calculation and it would be a highly speculative harvest level that would not likely be realistic. Harvest levels must be within the fiscal capability of the unit.

Comment: Timber harvest unit size limits. Some respondent felt the proposed rule standards for maximum size limits for areas to be cut in one regeneration harvest operation should be determined by local conditions, individual forest plans objectives, based on science, and mimic historic forest disturbance regimes.

Response: These limits on the maximum opening sizes were established in the 1979 planning rule and have been in use under the 1982 rule. In 1979, the committee of scientists recommended the maximum size for openings created by timber cutting be set by regional plans or regional silvicultural guides, not be set as a national standard. However, the Department decided in 1979 to set maximum size of harvest cut openings (40-, 60-, or 100-acre maximums depending on geographic location) with exceptions provided for through regional plans where larger openings will produce more desirable combinations of benefits. In the final rule, the Department continues these standards with the exceptions provided through the responsible official, who is normally the forest or grassland supervisor. The procedure for varying these limits is an established process that has worked effectively, providing a limit on opening size and public involvement with higher level approval for exceeding the limits. The Department believes that the procedure for varying from these limits may be particularly justifiable in the future for ecological restoration, species recovery, improvement of vegetation diversity, mitigation of wildland fire risk, or other reasons. For example, some rare species are adapted to large patch sizes with similar habitat attributes for critical parts of their life cycle.

Comment: Limiting the quantity of timber removed annually. Some respondents felt the proposed rule was unclear on direction for limiting the quantity of timber removed annually in perpetuity on a sustained-yield basis as it simply repeats NFMA wording.

Response: The Department changed the wording in paragraph (d)(6) of this section of the final rule to add clarity. In addition, the Department requires the Chief to set forth procedures for planning in the Forest Service Directives System to further explain the methods for determining the limit of the quantity of timber removed annually in perpetuity on a sustained-yield basis for an individual unit plan (§ 219.11(d)(6)).

Comment: Use of culmination of mean annual increment. A respondent felt the proposed use of culmination of mean annual increment (CMAI) of growth to limit regeneration harvests of even-aged stands will not address issues of poor forest health, and the likelihood of uncharacteristic insect, disease, and fire. Another respondent felt CMAI should also be used where timber is cut in non-even-aged stands.

Response: The Department does not agree that the national policy of CMAI as required by 16 U.S.C. 1604(m) has caused problems with issues of forest heath and the likelihood of uncharacteristic insect, disease, and fire. The national policy gives the Agency authority for exceptions from this standard for recreation, wildlife habitat, and other purposes. The NFMA requires that standards shall not preclude the use of sound silvicultural practices, such as thinning or other stand improvement measures. CMAI does not apply to uneven-aged stands as these stands are multi-aged; therefore, the final rule continues to limit the use of CMAI to regeneration harvests of even-aged stands.

Section 219.12—Response to Comments

Many comments on this section focused on requirements for the plan monitoring program, broad-scale monitoring strategies, and use of the monitoring information and the monitoring report. Throughout this section of the final rule, the Department

made minor edits for clarity and changed the name from "unit monitoring program" in the proposed rule to the "plan monitoring program" In the final rule. This change to the name clarifies that monitoring is intended to focus on the plan components and is not geographically defined or applicable to other resource program monitoring on the unit. Additionally, the Department added a sentence to paragraph (a) to draw a clearer link between the monitoring program and the use of monitoring information for adaptive management of the plan area.

The Department removed the requirements for science in paragraph (a)(4)(ii) because the requirements of § 219.3 apply to the entire subpart and therefore do not need to be repeated here. The Department is committed to using science to inform monitoring and the decisions based on monitoring information.

At paragraph (a)(5) of this section, the Department corrected the phrase monitoring "questions or indicators" to "questions and associated indicators" to better reflect the way questions and indicators are used for monitoring. In response to public comment the Department made several changes to the list of required monitoring questions and associated indicators of paragraph (a)(5) as follows:

(1) At paragraph (a)(5)(ii) of this section, the Department added direction that the monitoring for the status of select ecological conditions include questions and indicators for key characteristics of terrestrial and aquatic ecosystems, to link this monitoring requirement to the ecological requirements in §§ 219.8 and 219.9.

(2) At paragraph (a)(5)(iii) of this section, the Department clarified that questions and indicators for the status of focal species are to assess the ecological conditions required under § 219.9, to link this monitoring requirement more clearly to the coarse-filter requirements.

(3) At paragraph (a)(5)(iv) the Department added a new requirement for questions and indicators for the status of a select set of ecological conditions required under § 219.9 to contribute to the recovery of federally listed threatened and endangered species; conserve proposed and candidate species; and maintain a viable population of each species of conservation concern. This change was made in response to comments to more closely link monitoring with the need to assess progress towards meeting plan components for the species requirements in § 219.9. Additional discussion of this addition is discussed in the comment on *monitoring of at risk species.*

(4) At paragraph (a)(5)(v), the Department added the status of visitor satisfaction to the requirement for questions and indicators for the status of visitor use designated at paragraph (a)(5)(iv) of the proposed rule, in response to public comment.

(5) At paragraph (a)(5)(vi), the Department retained the requirement for questions and indicators related to climate change designated at paragraph (a)(5)(v) of the proposed rule, and changed the words "and other stressors on the unit" to "and other stressors that may be affecting the plan area."

(6) The Department removed the requirement for questions and indicators for the carbon stored in above ground vegetation previously designated at paragraph (a)(5)(vi) of the proposed rule. This change is accompanied by a change to § 219.6(b)(4) that requires responsible officials to identify and evaluate existing information for a baseline assessment of carbon stocks as part of the assessment. This change in requirements will lead to a more comprehensive assessment of carbon stocks (as opposed to carbon stored in above ground vegetation) earlier in the planning process. The Department retains the requirement to monitor changes related to climate change and other stressors (§ 219.12(a)(5)(vi).

(7) At paragraph (a)(5)(vii), the Department removed the requirement for questions and indicators for the progress toward fulfilling the unit's distinctive roles and contributions and added a requirement for questions and indicators addressing the progress toward meeting the desired conditions and objectives in the plan, including for providing multiple use opportunities. This change more accurately reflects what the Department intended to accomplish with the previous requirement at paragraph (a)(5)(vii) and the other requirements of (a)(5), and will help inform management effectiveness.

(8) At paragraph (a)(5)(viii), the Department changed the term "management system" to "each management system" to use words of the NFMA at 16 U.S.C. 1604(g)(3)(C) and respond to public comments.

The Department added wording to paragraph (a)(7) to clarify that project and activity monitoring may be used to gather information for the plan monitoring program, and that plan monitoring may inform the development of specific projects and activities; but that the plan monitoring requirements of this section are not a prerequisite for making a decision to carry out a project or activity.

At paragraph (c) of this section on timing and process, the Department removed the requirement at paragraph (c)(1) where the proposed rule required the responsible official to work with the public to identify potential monitoring needs during the assessment. The Department removed this requirement from the assessment phase in response to public comments to make the assessment phase more efficient and focused. As required in § 219.7, the assessment information will inform the development of monitoring questions and indicators during the plan development or revision phase.

The Department removed paragraph § 219.12(c)(4) of the proposed rule, the requirement that responsible officials ensure that scientists are involved in the design and evaluation of unit and broad-scale monitoring, because wording of the requirement was confusing and the substance of the requirement was redundant with the coordination requirements at §§ 219.12(a)(1) and (b)(2) of the rule.

The Department reorganized paragraph (d) for clarity. The Department removed the second sentence of paragraph (d)(1) of the proposed rule and moved to paragraph (d)(2) the requirement the monitoring evaluation report indicate whether a change to plan components or other plan content may be warranted. In addition, at paragraph (d)(2) the Department added the requirement that the report must be used to inform adaptive management of the unit.

At paragraph (d)(1)(iii) of the proposed rule the Department removed the requirement that the monitoring evaluation report must describe how best available science was taken into account, because the report is intended to be an evaluation of data and information gathered by the plan monitoring program, which must be informed by best available scientific information. A new requirement was added to section 219.14(a)(4) to make clear that the plan decision document must document how the responsible official used best available scientific information to inform the plan monitoring program.

In addition, paragraph (d)(3) of the proposed rule is now paragraph (d)(1)(iii) of the final rule, paragraph (d)(2) of the proposed rule is now (d)(3) of the final rule, but no changes to these requirements were made.

Comment: Scope of monitoring. Some respondents felt the proposed rule was unclear as to the extent of topics, including ones for desired conditions, responsible officials could consider when choosing the scope and scale of

plan monitoring. A respondent felt the rule should require the scope of the monitoring question be as complete as possible even if the scope of the final monitoring program cannot address all the questions.

Response: Because the information needs most critical for informed and adaptive management will vary by unit, the rule allows the responsible official the discretion to set the scope and scale of the plan monitoring program, subject to the minimum requirements in paragraph (a)(5) of this section. Paragraph (a)(2) directs that questions and indicators should be based on one or more desired conditions, objectives, or other plan component(s), but makes clear that not every plan component needs to have a corresponding monitoring question. Furthermore, the questions and indicators must be designed to inform the management of resources on the plan area, including by testing assumptions, tracking changes, and measuring management effectiveness and progress towards achieving or maintaining the plan's desired conditions or objectives. This direction allows the responsible official to develop the most strategic, effective and useful monitoring program for the plan area, based on the plan components in the plan and informed by best available scientific information and public input. This direction also recognizes possible limits to the technical or financial capabilities of the Agency: not all parts of a plan, or every acre, can be monitored each year—and it may not be a strategic investment to do so.

However, section 219.12(a)(5) of the final rule provides direction for a set of monitoring questions and associated indicators that must be part of every plan monitoring program. The list reflects substantive requirements of the final rule and links to the assessment phase. The responsible official can always consider additional factors and add questions and indicators.

Every plan monitoring program would contain one or more questions and associated indicators that address each of the following: (1) The status of select watershed conditions; (2) the status of select ecological conditions including key characteristics of terrestrial and aquatic ecosystems; (3) the status of focal species to assess the ecological conditions required under § 219.9; (4) the status of a select set of ecological conditions required under § 219.9 to contribute to the recovery of federally listed threatened and endangered species; conserve proposed and candidate species; and maintain a viable population of each species of conservation concern within the plan area; (5) the status of visitor use, visitor satisfaction, and progress toward meeting recreation objectives; (6) measurable changes on the plan area related to climate change and other stressors affecting the plan area; (7) progress toward meeting the desired conditions and objectives in the plan, including for providing multiple use opportunities; and (8) the effects of each management system to determine that they do not substantially and permanently impair the productivity of the land.

Comment: Accountability and public oversight for monitoring: Some respondents felt the rule should provide sufficient opportunity for public enforcement of monitoring quality and for public input on the Agency's use of monitoring information affecting project decisions. Several respondents felt the proposed rule did not establish accountability for monitoring and suggested the rule either require review by the Chief or specify the consequences of not conducting monitoring. Another suggested that the monitoring effort be periodically reviewed objectively by disinterested parties. Some respondents felt to improve accountability findings from monitoring program reports, the reports should be decisions subject to review.

Response: The rule cannot grant enforcement authorities to the public. Those authorities can only be granted by Congress. However, the rule's public participation and reporting requirements allow for a more transparent Government and holds officials accountable for sharing monitoring information and data with the public. This data will be open to public scrutiny, criticism, and objective review. The public will be able to evaluate and provide input on the Agency's use of the monitoring information to inform future decisions during opportunities for public participation and comment for those decisions, including future plan amendments, plan revisions, projects, and activities.

Accountability is achieved through the rule by requiring officials to develop monitoring, plan monitoring programs with questions and indicators and broader-scale monitoring strategies, and to prepare biennial monitoring reports. All these requirements allow for public involvement and review. Section 219.2(b)(5) of the rule further requires the Chief of the Forest Service to administer a national oversight and accountability process to review NFS land management planning which includes monitoring programs. The Agency already follows Departmental standards for the objectivity of information used to inform significant decisions under the Information Quality Act (Section 515 of Public Law 106–554). In addition, the responsible official is subject to performance review and accountability for fulfilling requirements of the rule and policies of the Agency. The Forest Service is required to report monitoring information consistent with the USDA Strategic Plan. (*http://www.ocfo.usda.gov/usdasp/sp2010/sp2010.pdf*).

Monitoring reports (like assessment reports) will include information that will be used to inform decisions, but are not decision documents because they do not compel an action or make a decision on an action; therefore, subjecting monitoring specifications to objection or appeal procedures is not necessary.

Comment: Monitoring requirements. A respondent felt the rule should include monitoring requirements for scientific grounding, thoughtful design, and sufficient funding, regularly scheduled, and analysis of cumulative impacts.

Response: The final rule requires the use of the best available scientific information to inform the monitoring program, requires the responsible official to identify the fundamental questions and indicators that will inform the design of monitoring programs, and will lead to a robust monitoring program that will be used to inform management. The public will have opportunities to provide input into the design of the monitoring program and to review the monitoring data. The monitoring information can be used in a number of ways, including analyzing cumulative effects. The final rule includes direction to take financial and technical capabilities of the Agency into account in designing the monitoring program, and requires in § 219.1(g) that the plan be within the fiscal capability of the unit.

Comment: Monitoring and consistency of methods. Some respondents felt the rule should include national monitoring standards to enable consistency across units so each national forest and grassland could be compared to others. Some respondents felt units could not develop monitoring programs efficiently in the absence of regional or national standards or guidance. Some respondents felt units will need additional guidance to enable them to design and conduct monitoring because the necessary resources and expertise is not often available on each unit. A respondent felt clarification was needed for how broader-scale monitoring could be associated with

assessments by the plan unit in the absence of regional guidelines. A respondent felt specific terminology should be used regarding monitoring types: range and distribution monitoring, status and change monitoring, and cause and effect monitoring. Some respondents felt the rule should require technical details like methods for data collection, sampling methods, specific measurements to sample, statistically sound set of monitoring guidelines, reference conditions or baseline data, cause-effect designs for monitoring, or possible contaminants to water quality, or that schedules of work be required in monitoring programs and documented in plans.

Response: The Department and Agency recognize the importance of having a system of monitoring that allows for information to be collected, used and compared across planning units. For that reason the final rule directs that the plan monitoring program must be coordinated and integrated with broader scale monitoring strategies to ensure that monitoring is complementary and efficient, and gathered at the appropriate scales, along with direction to coordinate with Research and Development, State and Private Forestry, and others. To support implementation of these requirements, the Agency is currently reviewing its inventory and monitoring system. However, the final rule does not include national monitoring standards for consistency across units because there is no fully tested national approach available at this time. The kinds of things to be monitored are varied, monitoring techniques and protocols evolve and improve over time, and different techniques may be more or less appropriate depending on what is being monitored and the information needs most critical to inform adaptive management on the unit. In addition, monitoring techniques may vary by partner, impacting opportunities to coordinate monitoring across landscapes and among neighboring land managers.

For these reasons the Department concluded it would be more appropriate to include additional direction and guidance, including for the kinds of technical specifications identified by the respondents, in the Forest Service Directives and in the unit plans. The final rule makes clear in paragraph (a)(6) of this section that a range of monitoring techniques may be used to carry out the monitoring required by this section: different questions and indicators will require the use of different, and evolving, techniques or methodologies. The responsible officials will use the best available scientific information to inform those choices. Monitoring protocols and methods would be coordinated with the regional forester and Forest Service State and Private Forestry and Research and Development.

Comment: Monitoring triggers. Some respondents thought that the monitoring program should include triggers or thresholds for action.

Response: The rule did not include triggers or thresholds because not all monitoring elements and indicators are suited to triggers. Establishing triggers can be complex and time consuming. The rule does not preclude the inclusion of triggers where they can be developed and where they are informed by the best available scientific information. The Department does intend the three phases of planning to be connected, and for each phase to inform the others. The information gathered and evaluated in the assessment phase will help the responsible official to develop a strategic monitoring program, and the information from monitoring will be used to indicate whether a new assessment is warranted, and to inform future assessments and plan components and other plan content. Wording was added to § 219.7 to make clear that the assessment and monitoring reports should be used to inform the plan development or revision, and to § 219.12 to make clear that the monitoring report should be used to inform adaptive management.

Comment: Use of non-agency data. Some respondents felt the Agency is reluctant to accept monitoring data about environmental conditions from a third party, like livestock permittees, and that the proposed rule funding requirements would further reduce funding available for monitoring. These conditions would cause the Agency to unfairly restrict some special uses, like grazing. Other respondents felt the rule should clearly provide opportunities for the responsible official to use information and assistance from non-agency organizations and individuals to contribute to monitoring programs. Other respondents felt non-agency data must meet Agency data standards. Still others felt the rule should allow the public opportunity to assist in gathering and submitting data.

Response: The rule provides more encouragement to use secondary data including sources external to the Agency than previous planning rules. Section 219.4 requires opportunities for public participation throughout the planning process, including developing the monitoring program. Section 219.12(c)(3)(i and ii) specifically directs the responsible official to take into account existing NFS and non-NFS inventory, monitoring and research programs, and to take into account opportunities to design and carry out multi-party monitoring. Many current monitoring programs and assessments rely on secondary data from a variety of sources, governmental and non-governmental sources. Monitoring data will be used to inform adaptive management. The requirements in this rule are intended to result in a more strategic use of monitoring dollars, and to leverage those investments where it is feasible and appropriate to do so.

Comment: Collection of data beyond unit boundaries. Some respondents felt the proposed rule inappropriately makes the responsible officials undertake broader-scale monitoring analyses, monitoring of significant areas not federally owned, and to collect data beyond unit boundaries.

Response: The final rule does not impose a requirement for responsible officials or regional foresters to monitor non-NFS lands. The monitoring requirements do not give responsible officials license to monitor where they lack authority.

It is appropriate and efficient to recognize that some monitoring questions are best evaluated at scales broader than one unit, to best inform management of a 193 million acre National Forest System that spans the country. The final rule directs the regional forester to develop a broader-scale monitoring strategy, in coordination with others, and encourages identifying opportunities for multi-party monitoring. The rule encourages responsible officials to coordinate monitoring across NFS units. The rule allows the Agency to continue efforts to use data from other agencies and sources because monitoring cooperation is in the best interest of Americans and the land, informing effective management and facilitating the strategic use of monitoring dollars.

Comment: Use of the Forest Inventory and Analysis system (FIA). A respondent suggests the rule should use the FIA system to monitor the health of forests and changes related to climate change.

Response: Many Agency units actively use FIA information as an integral part of their monitoring programs. The final rule directs the responsible official to take into account existing national and regional inventory, monitoring, and research programs, including from Forest Service State and

Private Forestry and Research and Development which includes FIA data.

Comment: Scientist involvement in plan and broader-scale monitoring design. A respondent felt the proposed rule sets too high a standard of ensuring scientists are involved in plan and broader-scale monitoring design. Another respondent felt the proposed rule did not specify in detail how the external scientific community would be involved.

Response: The requirement under § 219.12(c)(4) of the proposed rule for scientists to be involved in the design and evaluation of unit and broader-scale monitoring has been removed in response to public comment because the requirement was confusing and can be met through the coordination requirements at §§ 219.12(a)(1), (b)(2) and (c)(3)(ii) of the final rule. The final rule requires the use of best available scientific information to inform the design and content of the monitoring program, opportunities for public participation, and coordination in development of the monitoring program with Forest Service Research and Development, along with other partners and the public. The external science community may be involved in variety of ways, for example, through public participation opportunities or the use of external scientific reports.

Comment: Changes to specific subjects to be addressed in monitoring programs. A respondent suggested the responsible official discretion would be improved by deleting proposed wording "related to climate change and other stressors" and "carbon stored in vegetation." Others felt requirements to monitor accomplishment of plan objectives and progress towards achieving plan "desired conditions" should be added. Some respondents felt the proposed rule's monitoring requirements for specific resource areas unduly limited responsible official discretion in determining what questions and indicators to include in the unit monitoring program. Some respondents felt specific subjects should be required in all plan monitoring programs including: grazing impacts, off-road vehicle use, species populations, vegetation, ecological conditions, social and economic sustainability, effects of long-term uses, noise pollution, water quality, recreational use satisfaction, and public safety, among others. Some respondents felt the proposed rule would limit monitoring programs to consider only one monitoring question or indicator.

Response: Section 219.12(a)(5) of the rule requires the responsible official to develop a plan monitoring program that describes, at a minimum, one or more questions and associated indicators on eight specific topics. The number of monitoring questions and indictors may vary by topic. The Department believes that the set of minimum requirements for the plan monitoring program included in paragraph (a)(5) of the final rule is appropriate, reflects the substantive requirements of the final rule, builds on the information gathered during the assessment phase, and is focused on informing adaptive management of the plan area.

Paragraph (a)(5) does not limit the questions and indicators in any given plan. The responsible official has the authority to determine whether additional monitoring elements are warranted or necessary to inform management decisions if they are within the fiscal capability of the unit to implement. The Department's intent is for the responsible official to determine what information needs are most critical for informed and adaptive management of the plan area. Because most resource management concerns vary by forests or grasslands, the rule allows the responsible official discretion to set priorities for monitoring where it is most needed. This discretion is also important for fostering opportunities to coordinate monitoring with other government agencies and non-government entities. Therefore, an extensive list of other possible monitoring requirements in addition to the set in paragraph (a)(5) is not included in the final rule.

The requirements to include questions and associated indicators to monitor measurable changes on the plan area related to climate change and other stressors was retained in the final rule, because it is important to track changing conditions. The final rule removes the monitoring requirement for carbon stored in above ground vegetation because the Department added a requirement in the assessment phase (§ 219.6(b)) to identify and evaluate existing information for a baseline assessment of carbon stocks. This change reflected comments to this section and the assessment section, and is consistent with the Agency's Climate Change Scorecard which also requires a baseline assessment of carbon stocks. The Department added a requirement for the plan monitoring program to monitor progress toward meeting the plan's desired conditions and objectives and a requirement to monitor visitor satisfaction in § 219.12(a)(5) of the final rule.

Comment: Ecological Conditions and Focal Species (§ 219.9). Some respondents felt the required monitoring questions and indicators of § 219.12(a) of the proposed rule did not adequately address fish and wildlife populations or gauge progress towards meeting the requirements of § 219.9 of the proposed rule.

Response: In response to these comments, the Department added wording to the required questions and indicators of § 219.12 to link them to the ecological conditions required by §§ 219.8 and 219.9, added the requirement in paragraph (a)(5)(iv) to monitor ecological conditions associated with the species requirements in § 219.9, and modified two definitions. The changes to the requirements for questions and indicators are explained in the introduction to the response to comments of this section. The Department modified the definition of "ecosystem" to explain these interrelated ecosystem elements so the relationship between monitoring questions and indicators are clearly related to the ecological conditions of §§ 219.8 and 219.9. The Department modified the definition of focal species to clarify the intended role of focal species in assessing the effectiveness of the plan in maintaining the diversity of plant and animal communities in the plan area.

Comment: Questions about focal species. Respondents asked questions about focal species. (1) What are they? (2) What do they represent? (3) What criteria will be used to select them? (4) How many will there be for a particular plan area? (5) How will they be monitored?

Response: (1) The inclusion of the focal species (§ 219.19) in the monitoring section is based on concepts from the March 15, 1999, Committee of Scientists report, which recommended focal species as an approach to monitor and assess species viability. The term "focal species" is defined in the rule as: A small subset of species whose status permits inference to the integrity of the larger ecological system to which it belongs and provides meaningful information regarding the effectiveness of the plan in maintaining or restoring the ecological conditions to maintain the diversity of plant and animal communities in the plan area. Focal species would typically be selected on the basis of their functional role in ecosystems.

(2) The requirement for monitoring questions that address the status of focal species is linked to the requirement of § 219.9 of the final rule to provide for ecosystem integrity and diversity, which describes the coarse-filter approach for providing diversity of plant and animal

communities and the persistence of native species in the plan area. The rule requires plan components designed to maintain or restore a range of ecological conditions at a variety of spatial and temporal scales (§§ 219.8 and 219.9). Appropriate monitoring of focal species will provide information about the integrity of the ecosystem and the effectiveness of the plan components in maintaining diversity of plant and animal communities in the plan area. In other words, focal species monitoring is used as means of understanding whether a specific ecological condition or set of conditions is present and functioning in the plan area. Focal species monitoring is not intended to provide information about the persistence of any individual species. The rule does not require managing habitat conditions for focal species, nor does it confer a separate conservation requirement for these species simply based on them being selected as focal species.

(3) The Committee of Scientists report said focal species may be indicator species, keystone species, ecological engineers, umbrella species, link species, or species of concern. Agency directives will provide guidance for considering the selection of a focal species from these or other categories. Criteria for selection may include: the number and extent of relevant ecosystems in the plan area; the primary threats or stressors to those ecosystems, especially those related to predominant management activities on the plan area; the sensitivity of the species to changing conditions or their utility in confirming the existence of desired ecological conditions; the broad monitoring questions to be answered; factors that may limit viability of species; and others. This does not preclude the use of an invasive species as a focal species, whose presence is a major stressor to an ecosystem.

(4) The final planning rule does not require a specific number or numeric range of focal species to be selected. The number will vary from unit to unit. The definition of focal species requires a small subset of species. The responsible official has discretion to choose the number of focal species that he or she determines will be useful and reasonable in providing the information necessary to make informed management decisions. It is not expected that a focal species be selected for every element of ecological conditions.

(5) The rule does not specify how to monitor the status of focal species. Monitoring methods may include measures of abundance, distribution, reproduction, presence/absence, area occupied, survival rates, or others. The objective is not to choose the monitoring technique(s) that will provide the most information about the focal species, but to choose a monitoring technique(s) for the focal species that will provide useful information with regard to the purpose for which the species is being monitored.

The final rule does not require monitoring species population trends. Species population trend monitoring is costly, time intensive, and may not provide conclusive or relevant information. In addition, traditional monitoring of species population size and trend is not reliable for many species because of wide variations in population size. For certain species, for example, a more reliable method may be presence-absence data obtained through non-invasive genetic sampling. Presence-absence modeling could be used to map and predict species distribution, help model habitat requirements and use occurrence data to help estimate the probability of a species being present in sustainable numbers within a geographic area. Genetic sampling, which is drawing DNA from physical species evidence collected at sites under evaluation, can be used to acquire data for this approach. Other monitoring techniques in addition to these examples may be more appropriate in a given circumstance. Therefore, although population trend monitoring may be used where feasible and appropriate, the final rule explicitly provides discretion to the responsible official to choose the most appropriate methods for monitoring, using the best available scientific information to inform the monitoring program.

Specific guidance on focal species selection and monitoring methodology is expected to be further described in the Agency's planning directives. Some focal species may be monitored at scales beyond the plan area boundary, while others may be more appropriately monitored and assessed at the plan area scale.

Comment: Focal species vs. management indicator species. Many respondents expressed concern or confusion over the role of focal species monitoring in meeting the requirements of § 219.9; and how focal species would be used differently from management indicator species (MIS) as required under the 1982 planning rule.

Response: The Department's decision to require monitoring of focal species as well as select ecological and watershed conditions is a shift from the 1982 rule's requirement to specifically monitor population trends of "management indicator species," or MIS. The theory of MIS has been discredited since the 1982 rule. Essentially, monitoring the population trend of one species should not be extrapolated to form conclusions regarding the status and trends of other species. The requirement for monitoring questions that address the status of focal species is linked to the requirement of § 219.9 of the final rule to provide for ecosystem integrity and diversity, which describes the coarse-filter approach for providing diversity of plant and animal communities and the persistence of native species in the plan area. Focal species are not intended to provide information about the persistence of any individual species.

In addition, population trends for most species are extremely difficult to determine within the 15-year life of a plan, as it may take decades to establish accurate trend data, and data may be needed for a broader area than an individual national forest or grassland. Nor is this data the most useful to inform management for the purposes of meeting the diversity requirements of the rule. Instead, the Agency expects to take advantage of recent technological advancements in monitoring the status of focal species, such as genetic sampling to estimate area occupied by species.

The provisions under § 219.9 of the final planning rule are focused on maintaining or restoring the ecological conditions necessary to maintain the diversity of plant and animal communities and support the persistence of native species in the plan area. Because of the problems with MIS as stated above, and because the concept of monitoring focal species, as described by the Committee of Scientists report of March 15, 1999, is used to assess the integrity of ecological systems, the final planning rule incorporates the concept of focal species for monitoring the ecological conditions required in § 219.9. Focal species are not intended to be a proxy for other species. Instead, they are species whose presence, numbers, or status are useful indicators that are intended to provide insight into the integrity of the larger ecological system, the effects of management on those ecological conditions, and the effectiveness of the § 219.9 provisions. The monitoring questions and associated indicators required in § 219.12(a)(5)(i–iv) as discussed above are expected to assess progress towards meeting the desired ecological conditions required under §§ 219.8 and 219.9, and the effectiveness of those conditions in maintaining the diversity of plant and animal communities and

supporting the persistence of native species in the plan area.

Comment: Selection and monitoring of focal species. Respondents felt the rule should require 3 items for selection and monitoring of focal species: (1) The best available scientific information; (2) the engagement of research, state fish and wildlife agencies, and others; and (3) a broader spatial scale then one plan area.

Response: The rule requires (1) all aspects of planning to use the best available scientific information to inform the planning process, plan components, and other plan content, including the monitoring program (§§ 219.3 and 219.14); (2) coordination with research, and consideration of opportunities to design and carry out monitoring with a variety of partners including state agencies (§§ 219.12(a)(1), (b)(2), and (c)(3)(ii)); and (3) broader-scale monitoring strategies be developed in addition to the plan monitoring program, to address questions that are best answered at a broader scale than one plan area (§ 219.12(b)), which may include monitoring for one or more focal species.

Comment: Monitoring of at risk species. Some respondents felt the rule should require monitoring of populations of federally listed threatened and endangered species, species that are candidates for Federal listing, and species of conservation concern.

Response: In response to public comments, the Department added a requirement to the rule for monitoring questions and associated indicators to monitor the status of a select set of the ecological conditions required under § 219.9 to contribute to the recovery of federally listed threatened and endangered species; conserve proposed and candidate species; and maintain a viable population of each species of conservation concern within the plan area (§ 219.12(a)(5)(iv). It is expected that monitoring a select set of the ecological conditions required by these species will give the responsible official information about the effectiveness of the coarse and fine-filter plan components included to meet the requirements of at risk species. The intent of the term "a select set" is to focus the monitoring on a few important ecological conditions that may be monitored in an efficient way. Monitoring for watershed conditions, other ecological conditions, and focal species will also provide information about the effectiveness of plan components for at risk species.

In some circumstances, a threatened, endangered, proposed, or candidate species, or a species of conservation concern may be the most appropriate focal species for assessing the ecological conditions required by § 219.9. However, as explained in earlier responses in this section, population trend monitoring is not required by the final rule.

Comment: Monitoring of habitat conditions. Respondents felt that monitoring habitat conditions only, specifically related to vegetation composition and structure, will not adequately address the reasons why species may or may not occupy those habitats; and that there may be other stressors unrelated to habitat that make suitable habitat conditions unsuitable for occupation by a particular species.

Response: The final rule requires monitoring the status of select ecological conditions. The concept of ecological conditions as defined in the proposed rule and the final rule includes more than vegetation composition and structure: it is designed to encompass those factors as well as others, including stressors that are relevant to species and ecological integrity.

Examples of ecological conditions include the abundance and distribution of aquatic and terrestrial habitats, connectivity, roads and other structural developments, human uses, and invasive species.

Comment: Distinctive roles and contributions. A respondent felt "distinctive roles and contributions" wording in proposed § 219.12(a)(5)(vii) is inappropriate and should be stricken from the monitoring section.

Response: The final rule removes "distinctive roles and contributions" from § 219.12 in response to public comment because the Department has decided that the new requirement at paragraph (a)(5)(vii) for questions and indicators addressing the progress toward meeting the desired conditions and objectives in the plan, including for providing multiple use opportunities, more accurately reflects what the Department intended to accomplish with the previous requirement at paragraph (a)(5)(vii) in the proposed rule and the other proposed requirements of (a)(5).

Comment: Management systems in NFMA. Some respondents felt the proposed rule misinterprets the NFMA reference to management systems by not repeating the word "each" and by overly restricting the types of management systems.

Response: The final rule adds the word "each" to the monitoring requirement for management systems. As clarification, § 219.19 of the final rule also includes a definition of management system as a timber management system such as even-aged management or uneven-aged management. Management system is a term of art of the NFMA (16 U.S.C. 1604(g)(3)(C)). The term management system must be understood in the context of the NFMA which was developed to give guidance to the Agency in how to manage timber. The Department understands the intent of Congress was that research and evaluation would be done on a sample basis. The Forest Service Research and Development staff began the long-term soil productivity program in 1989 to examine the long term consequences of soil disturbance on fundamental forest productivity through a network of designed experiments. (Powers, R.F. 2006. Long-Term Soil Productivity: genesis of the concept and principles behind the program. Can. J. For. Res. 36:519–528.)

Comment: Monitoring effects of management procedures. A respondent felt the 1982 provisions for requiring documentation of the measured prescriptions and effects of management procedures (practices) are superior to the monitoring requirements of the proposed rule. The respondent felt the proposed provisions would fail to ensure that actions do not jeopardize biodiversity.

Response: The Department requires monitoring questions and indicators to monitor eight topics including the status of ecological conditions. Ecological conditions include vegetation composition and structure, abundance and distribution of aquatic and terrestrial habitats, connectivity, roads and other structural developments, human uses, and invasive species. Questions and indicators associated with the required topics in § 219.12(a)(5) of the final rule can be used to evaluate effects of management procedures (practices) based on the outcomes observed in ecological conditions. The Department concludes that these monitoring requirements support the substantive requirements for ecological integrity and ecosystem and species diversity in the final rule.

Comment: Conservation education: A respondent felt monitoring should include conservation education.

Response: Conservation education can be a valuable outcome from collaborative planning and reaching out to engage others in design of monitoring programs. The rule gives discretion to the responsible officials to consider the extent and methods chosen to address conservation education. Other sections direct the responsible official to

consider opportunities to connect people to nature. However, a specific requirement for monitoring conservation education was not added to the final rule.

Comment: Financial feasibility of monitoring. Some respondents felt the proposed rule was obligating the Agency to undertake unaffordable or unachievable monitoring work, in particular broad-scale monitoring extending beyond the boundaries of NFS lands. Some felt the monitoring requirements may cause the Agency to increase fees to cover costs or that broad-scale monitoring would become a precondition before issuing special use permits.

Response: The proposed rule does not obligate the Agency to monitor beyond its fiscal means. Final rule §§ 219.1(g), 219.12(a)(4)(ii) and 219.12(b)(3) ensures that responsible officials must exercise discretion to develop technically and financially feasible monitoring programs. Although monitoring information will be used by responsible officials to inform the need to change plan components, including standards or guidelines, the rule specifically makes clear in § 219.12(a)(7) that monitoring is not a prerequisite for carrying out a project or activity such as the renewal of special use permits.

Comment: Financial feasibility of monitoring economic and social structures of communities. A respondent felt the financial feasibility of monitoring under the proposed rule was unattainable and additional discussion was needed on how economic and social structures of local communities will be monitored.

Response: The rule requires certain subjects be addressed with one or more questions and associated indicators as the basis for plan monitoring. The NEPA compliance in support of proposed plans and projects will disclose the economic and social effects to local communities, and paragraph (a)(5)(vii) of this section requires monitoring progress towards meeting desired conditions and objectives in the plan, which will include plan components developed to contribute to social and economic sustainability. However, there is no requirement to monitor the economic and social structures of local communities. The Department believes that the monitoring requirements of the final rule will be achievable.

Comment: Feasibility of climate change monitoring. Some respondents felt the requirement for plan monitoring programs to include one question and indictor associated with measurable changes on the unit related to climate change and other stressors would be neither affordable nor achievable.

Response: The Department believes that including monitoring questions and indicators associated with measureable changes on the unit related to climate change and other stressors is achievable. The Agency is already conducting monitoring for climate change and other stressors such as insects, diseases, invasive species, wildfire, and more. In addition, the Agency is implementing the Climate Change Roadmap and Scorecard, which includes monitoring for climate change. This section allows the responsible official to use and build on other data and programs, encourages coordination with others and multi-party monitoring, and recognizes that some monitoring questions may best be answered at a scale broader than on plan area. The flexibility provided in this section will allow the responsible official to develop a strategic, effective, and financially achievable monitoring program, while meeting the requirements of paragraph (a)(5).

Comment: Project monitoring. Some respondents felt project monitoring requirements should be included in the rule. Citing Department of Army regulations, a respondent felt the rule should require project monitoring funding be allocated before project implementation. Some respondents felt proposed § 219.12(a)(7) meant project monitoring would not occur.

Response: The Department agrees project monitoring is important and is a valuable means of understanding the effects of projects and can provide information useful to adapt future project plans to improve resource protection and restoration. The Department added wording to paragraph (a)(7) to clarify that project and activity monitoring may be used to gather information for the plan monitoring program, and that plan monitoring may inform the development of specific projects and activities. The Department anticipates that project and activity monitoring will be used as part of the plan monitoring program, but the responsible official has the discretion to strategically select which projects to monitor and the monitoring questions related to those projects that will best inform the monitoring program and test assumptions, track changing conditions, or evaluate management effectiveness. However, the final rule makes clear the monitoring requirements of this section are not a prerequisite for making a decision to carry out a project or activity. Each project carried out under the plan will not automatically include the monitoring requirements for the plan.

Project monitoring may also occur for purposes other than supporting the plan monitoring program, and the final rule does not preclude project-specific monitoring requirements developed as part of project or activity decisions. The planning rule does not discuss requirements for project monitoring; therefore, funding of project monitoring is an issue outside the scope of the planning rule.

Comment: Risks from lack of monitoring or monitoring information. Some respondents felt the lack of monitoring, or information not available through monitoring, could delay management actions or foreclose activities and projects because of uncertainties. A respondent felt the rule should clearly state monitoring goals are not preconditions to approve, continue, or renew special use permits or provide for public uses, or State fish and wildlife management activities.

Response: Although monitoring information may be used by responsible officials to inform the need to change the plan, monitoring is not a precondition of conducting projects or carrying out management actions. The rule establishes those elements of monitoring necessary to inform adaptive management of the resources on the unit. None of the requirements of monitoring for the plan monitoring program apply to individual projects or activities. These monitoring requirements do not delay or foreclose management activities.

Comment: Monitoring and extractive actions. A respondent felt the rule should require all extractive actions to cease on a unit until timely monitoring has been completed.

Response: The planning rule does not apply to any ongoing projects or activities except as provided by § 219.15.

Comment: Monitoring and assessment data. A respondent felt the rule should specifically state new and accurate data is important to the success of monitoring and assessment, and use of new and accurate data is required.

Response: The final rule requires the use of best available scientific information to inform the development of the monitoring program. However, the final rule does not add the requirement suggested by the respondent as some monitoring questions or indicators may be adequately addressed with existing data. Accuracy in data is met through data protocols and quality control standards covered in other Agency guidance outside the planning regulations.

Comment: Feedback needed from monitoring to planning and

management actions. Some respondents felt the proposed rule lacks feedback between monitoring and changes to plan components. Some respondents felt the rule should include accountability measures and explicitly include "adaptive management" requirements rather than just describing a framework for planning consistent with principles of "adaptive management."

Response: The Department made changes in response to public comments to make clear the focus on adaptive management. The monitoring program is required to be designed to inform management (§ 219.12(a)). The final rule requires that the monitoring evaluation report be used to inform adaptive management of the plan area (§ 219.12(d)(2)), in addition to the requirement that the report indicate whether new information indicates that changes are warranted. The final rule requires that the responsible official review relevant information from both the assessment and monitoring to inform the development of plan components and other plan content (§ 219.7(c)(2)(i)). Section 219.5(a) sets forth a responsive planning process that informs integrated resource management and allows the Agency to adapt to changing conditions, including climate change, and improve management based on new information and monitoring. The final rule also requires the Chief to administer a national oversight process for accountability and consistency to review NFS land management planning in the context of this framework (§ 219.2(b)(5)).

Comment: Biennial evaluations. Some respondents felt the proposed biennial evaluations requirement would be too costly, time consuming and complex. Others felt the rule should require an annual evaluation. Others thought the biennial evaluation time is too short because of long-term aspects, such as climate change, require long periods of time before meaningful evaluations can be conducted. Still others felt the rule should require a public comment period on the biennial evaluation. One respondent felt the rule should not allow the responsible official to publish monitoring evaluation reports without approval at a higher level. Some respondents felt the proposed requirement for biennial reporting would not meet NFMA's requirement for continuous monitoring.

Response: The Department decided to retain the requirement that the responsible official conduct a biennial evaluation of the monitoring information and issue a written report of the evaluation and make it available to the public. The biennial evaluation of monitoring is intended to collect, evaluate, and report on new data or results that provide information for adaptive management: for example, information about management effectiveness, progress towards meeting desired conditions or objectives, changing conditions, or validation (or invalidation) of assumptions. The biennial monitoring evaluation does not need to evaluate all questions or indicators on a biennial basis but must focus on new data and results that provide new information for adaptive management. The responsible official may postpone the monitoring evaluation for 1 year after providing notice to the public in the case of exigencies such as a natural disaster or catastrophic fire. The Department believes that this requirement is implementable and important to inform adaptive management.

The Agency's experience is that an annual evaluation is too frequent to determine trends or to accumulate meaningful information and the 5-year time frame (§ 219.10(g) of the 1982 rule) is too long to wait in order to respond to changing conditions or new information. Therefore, the Department determined the monitoring evaluation would occur at a 2-year interval. The Department recognizes some kinds of monitoring indicators require longer time frames for thorough evaluation of results, but a biennial review of what information has been collected will ensure evaluation of available information is timely and can be used to inform planning and adaptive management of the unit.

The Department also retained the requirement that the responsible official publish the monitoring evaluation report, so that it is available to the public. Section 219.4(a) of the final rule requires the responsible official to provide opportunities for the public to participate in reviewing the results of monitoring information. The responsible official may elect various methods for this participation, but the rule does not direct any specific form for this participation such as requiring formal comment on the biennial evaluation. Public notice of the availability of the monitoring evaluation report is required, and must be posted online. Additional notice may be made in any way the responsible official deems appropriate. Any changes to the monitoring program require consideration of public comment.

Section 219.5(a)(3) of the final rule states that under the planning framework "monitoring is continuous." The biennial monitoring evaluation report would not halt monitoring; it would simply report new information obtained from that monitoring.

Comment: Evaluation reports and changes to plan components based on information from petition(s). A respondent suggested the biennial evaluation report incorporate science contained in environmental analyses and the plan be updated to incorporate information from petition(s).

Response: The requirement in this section for a biennial evaluation report is focused on providing systematic and transparent reporting and evaluation of information obtained pursuant to the monitoring program established consistent with this section. The report will be used to inform adaptive management on the unit. As part of the planning process, the responsible official may also consider any additional relevant information contained in other sources, such as petitions or new environmental analyses.

Comment: Required actions in response to monitoring. Some respondents felt monitoring results might be of no consequence if there are no requirements in the rule to take specific actions to respond to monitoring results. These changes should not wait for another planning cycle. Others felt the rule should include criteria as to when a need to change the plan is indicated by monitoring. A respondent suggested unit monitoring incorporate efforts to focus on non-native invasive species not present but can reasonably be foreseen as posing a risk to eventually enter the plan area. Another respondent felt proposed § 219.12(a)(7) would result in monitoring programs not dealing with watershed degradation associated with projects or activities, such as grazing, and the rule should focus on watersheds in poor condition, degraded riparian and upland habitats, substantial and permanent losses in soil productivity, and streams. A respondent felt the requirement to monitor "the status of select watershed conditions" was vague and could lead to the collection of disparate types of information across planning units and could create local conflicts over the requirement's interpretation. A respondent felt more explanation was necessary in the rule on why topics were not included in requirements under § 219.12(a)(5). A respondent felt the rule should require the monitoring program to substantiate why certain portions of the plan do not warrant monitoring. A respondent suggested the rule specify a framework for reporting on forest conditions such as the Montreal Protocol.

Response: The final rule requires that the monitoring evaluation report indicate whether a change to the plan, management activities, the monitoring program, or a new assessment may be warranted based on the new information. It also requires that the monitoring evaluation report be used to inform adaptive management of the plan area to ensure that the plan remains effective and relevant. The responsible official will need to evaluate when the information warrants a change to the plan. The public will have the opportunity to review the biennial monitoring report, and is welcome to provide input to the responsible official. The Department modified the requirements of paragraph (a)(5) in response to public comments and to more closely link the monitoring requirements to the assessment topics and to the substantive requirements in §§ 219.7 through 219.11. The responsible official is not limited to the monitoring requirements identified in paragraph (a)(5) of this section. The responsible official may add questions and indicators to reflect the monitoring needs most appropriate to inform effective management for that unit. In addition, the broader-scale monitoring strategies will identify questions and indicators best monitored at a broader geographic scale than the plan area.

The Department concluded that the set of monitoring requirements in the final rule provides an appropriate balance between requiring core monitoring on each unit and recognizing that there will be a wide and diverse array of monitoring needs across each system, including with regard to what specific questions and indicators may be most relevant for the topics in paragraph (a)(5) of this section. The responsible official will need to document the rationale for decisionmaking, as well as how best available scientific information was used to inform the monitoring program. Additional direction will be included in the Forest Service Directive System, and may be provided as a result of the Agency's ongoing review of its monitoring system.

The final rule requires monitoring of watershed conditions, as well as ecological conditions associated with aquatic ecosystems, and progress towards meeting desired conditions and objectives. The Department believes that these monitoring requirements will support the substantive requirements in the final rule for plan components for watersheds, water quality, water resources, and riparian areas, including those considerations with regard to water identified in the comment, and will inform management effectiveness and adaptive management.

The Department expects monitoring will be informed by FIA data. The FIA program inventories and reports on changing conditions across all forested lands and provides information that reflects many Montreal Process indicators.

Comment: Adjusting plans without adequate monitoring information. A respondent felt the proposed rule's emphasis on making rapid changes may cause the responsible official to make changes to plan components without the benefit of monitoring over an appropriate period of time, as some monitoring questions and indicators cannot be adequately evaluated annually. A respondent felt the proposed rule's support of rapid adjustment of management through monitoring could lead to mistakes when causal factors are not understood. Another respondent felt the adaptive management approach was too vague and the rule needed wording to endorse a precautionary approach when the responsible official has only limited data available for a decision about a significant change in resource management.

Response: The Department agrees numerous monitoring questions and indicators could take many years of monitoring data collection before the information can be credibly evaluated. The use of the monitoring information is one factor in deciding when and how to change a plan. Any amendment or revision conducted as a result of new information from monitoring would be carefully done in accordance with the NEPA and the requirements of this final rule. Rapid, narrow amendments can help plans stay current and relevant, while recognizing that more information will be available over time. Since responsible officials already have discretion to consider precautionary measures when risks to resources are uncertain during NEPA analysis, the Department decided it is not necessary to add precautionary wording to the final rule. Any significant change in resource management would need to be consistent with the sustainability and other requirements in the final rule.

Comment: Administrative change applied to monitoring program. A respondent felt modifying monitoring programs with an administrative change would pose a risk of not conducting good monitoring because changes could be done too easily.

Response: Section 219.2 requires national oversight and process for accountability for planning. In addition, a substantive change to a monitoring program via an administrative change can only be made after public notice and consideration of public comment. Monitoring design and specification of details about measurement quality objectives, techniques, and frequency are subject to changing scientific knowledge. The final rule allows monitoring programs to be changed in a timely way to respond to evolving science and to maintain scientific credibility. Additionally, monitoring programs do not rely exclusively on protocols authored by the Agency. For example, other agencies such as Environmental Protection Agency, US Geological Survey, and National Park Service possess expertise and have already incurred substantial expense developing, reviewing, and testing protocols. It will be important, especially for multi-party monitoring, to be able to evaluate and incorporate these protocols when appropriate in the plan monitoring program as new partnerships are formed.

Section 219.13—Plan Amendment and Administrative Changes

This section of the rule sets out the process for changing plans through plan amendments or administrative changes. The section would allow the responsible official to use new information obtained from the monitoring program or other sources and react to changing conditions to amend or change the plan. The Department's intent is that plans will be kept more current, effective, and relevant by the use of more frequent and efficient amendments, and administrative changes over the life of the plan, also reducing the amount of work needed for a full revision.

Plan Amendments

Plan amendments incrementally change the plan as need arises. Plan amendments could range from project specific amendments or amendments of one plan component, to the amendment of multiple plan components. For example, a monitoring evaluation report may show that a plan standard is not sufficiently protecting streambeds, indicating that a change to that standard may be needed to achieve an objective or desired condition in the plan for riparian areas. In that case, the responsible official could choose to act quickly to propose an amendment to change that particular standard.

The process requirements for plan amendments and administrative changes are simpler than those for new plan development or plan revisions in order to allow responsible officials to keep plans current and adapt to new information or changed conditions.

As discussed in § 219.6, the final rule does not require an assessment prior to initiating a plan amendment, because a new assessment will not always be necessary or useful. However, the responsible official can always choose to conduct an assessment and take additional time to develop a proposal when the potential amendment is broader or more complex or requires an updated understanding of the landscape-scale context for management. For example, a monitoring evaluation report may indicate that a new invasive species is affecting forest health on the plan area. The responsible official may want to conduct a new, focused assessment to synthesize new information about the spread of that species, how other plan areas or land management agencies are dealing with the threat, what stressors make a resource more vulnerable to the species, how the species may be impacting social or economic values, or how neighboring landowners are approaching removal of the species. The responsible official, consistent with the requirements for public participation in § 219.4, would then collaboratively develop a proposal to amend several plan components to deal with the invasive species.

All plan amendments must comply with Forest Service NEPA procedures. This final rule provides that appropriate NEPA documentation for an amendment could be an EIS, an environmental assessment (EA), or a categorical exclusion (CE) depending upon the scope and scale of the amendment and its likely effects. A proposed amendment that may create a significant environmental effect and thus require preparation of an EIS is considered a significant change in the plan for the purposes of the NFMA.

Administrative Changes

Administrative changes allow for rapid correction of errors in the plan components. In addition, other content in the plan, as identified in § 219.7(f), could be altered with an administrative change, including the monitoring plan, the identification of watersheds that are a priority for maintenance or restoration, the plan area's distinctive roles and contributions, and information about proposed or possible actions that may occur on the plan area during the life of the plan. This final rule requires the responsible official to provide public notice before issuing any administrative change. If the change would be a substantive change to the monitoring program, the responsible official must also provide an opportunity for the public to comment on the intended change and consider public concerns and suggestions before making a change. The Department believes that allowing administrative changes to other content, other than plan components, would help the responsible official rapidly adapt that content to changing conditions and respond to new information, while requiring the responsible official to keep the public informed. For example, a major fire event may make a particular watershed a new priority, or a new collaborative monitoring effort may require the addition of one or more monitoring questions.

Section 219.13—Response to Comments

The Department made minor modifications to the wording of this section from the 2011 proposed rule for clarity.

At the end of paragraph (a), the words "(including management areas or geographic areas)" were added to reflect the modifications of § 219.7, and to clarify that an amendment is required for any change in how or whether plan components apply to those areas.

The Department merged provisions about plan amendments found in two sections of the proposed rule (§§ 219.6(c) and 219.13(b)(1)) into one paragraph (paragraph (b)(1) of this section) of the final rule, for clarity. The provisions were removed from § 219.6(c) of the final rule.

The Department added a sentence to the end of paragraph (b)(3) of this section to make clear that a proposed amendment that may have a significant environmental effect and thus require preparation of an EIS is considered a "significant change in the plan" for purposes of the NFMA. The NFMA at 16 U.S.C. 1604(f)(4) states that plans shall be amended in any matter whatsoever after public notice, and, if such amendment would result in a significant change in a plan, the plan must be amended in accordance to the requirements of 16 U.S.C. 1604(e) and (f) and public involvement required by 16 U.S.C. 1604(d). Likewise, as part of the NEPA process, the responsible official must determine whether the significance of the proposed amendment's impact on the environment would require an environmental impact statement. This addition to the final rule makes the NEPA and NFMA findings of "significance" one finding. If under NEPA a proposed amendment may have a significant effect on the environment and an EIS must be prepared, the amendment would automatically be considered a significant change to a plan.

The Department finds that the process requirements for an EIS, the 90-day public comment period required by this final rule, and the additional requirements for amendments under this final rule meet the requirements for a amendment that results in a significant change to the plan under 16 U.S.C. 1604(f)(4). Thus, the responsible official must make only one determination of significance, under the well-known standards of NEPA.

For other plan amendments, less detailed levels of NEPA compliance such as the preparation of environmental assessment or a decision memo using a categorical exclusion may be appropriate. There is the same opportunity for persons to file objections to all proposed amendments as there is for proposed revisions (subpart B of the final rule).

Paragraph (c)(1) of both the proposed and the final rule provide that changes to "other plan content," may be made via an administrative change (unlike the plan components, which require an amendment to make substantive changes). Because of the importance of the monitoring program to the public, the proposed rule provided and the final rule retained a requirement that substantive changes to the monitoring program made via an administrative change can be made only after notice and consideration of public comment. In the final rule, the Department added the word "substantive" to convey the Department's intent that minor changes or corrections to the monitoring program can be made via an administrative change without providing an opportunity for public comment.

Comment: Appropriate NEPA for plan amendments. Some respondents felt plans should be as simple and programmatic as possible and NEPA compliance should occur only at the project level. Another respondent said categorical exclusions should be used for minor amendments, environmental assessments for more significant amendments. Some respondents felt any action requiring an amendment should be considered a significant action, therefore requiring development of an EIS to disclose the anticipated effects of the amendment. A respondent felt it was unclear as to when an EIS was done for an amendment and when it was done for a plan revision. Other respondents felt use of categorical exclusions was inappropriate for a plan amendment as any changes to the plan should be subject to careful environmental review, scrutiny, and analysis.

Response: Requiring an EIS for all amendments would be burdensome, and unduly expensive for amendments with no significant environmental effect. It would also inhibit the more frequent use of amendments as a tool for adaptive management to keep plans relevant, current and effective between plan revisions based on changing conditions and new information. The Department requires the responsible official to follow NEPA procedures and choose the appropriate level of analysis: EIS, EA, or CE, based on the scale and scope of the amendment. As clarification, § 219.13 of the final rule clarifies that any plan amendment that may create a significant environmental effect and therefore require preparation of an EIS will be considered "a significant change in the plan" for the purposes of the NFMA; requiring a 90-day comment period under § 219.16. An EIS is always required for a plan revision or for development of a new plan.

Comment: Amendment verses administrative change. Some respondents felt the proposed rule was confusing regarding when an amendment and when an administrative change was to be used.

Response: Plan components are the plan's desired conditions, objectives, standards, guidelines, suitability of areas, or goals described in § 219.7. An amendment is required if a change, other than correction of a clerical error or a change needed to conform to new statutory or regulatory requirements, needs to be applied to any of these plan components.

Administrative changes are made to correct clerical errors to plan components, to alter content in the plan other than the plan components, or to achieve conformance of the plan to new statutory or regulatory requirements. A clerical error is an error of the presentation of material in the plan such as phrasing, grammar, typographic errors, or minor errors in data or mapping that were appropriately evaluated in the development of the plan, plan revision, or plan amendment. An administrative change could not otherwise be used to change plan components or the location in the plan area where plan components apply, except to conform the plan to new statutory or regulatory requirements. Changes that could be made through an administrative change may also be made as part of a plan amendment or revision instead.

Comment: Thirty-day comment period on environmental assessments (EAs). Some respondents felt more than 30 days was needed for public review of a large and complicated plan amendment supported by an EA. They proposed a three tiered public response period: 90 days for proposals requiring an EIS, 60 days for those requiring an EA, and 30 days for all others.

Response: The final rule retains the 30-day minimum comment period for a plan amendment (§ 219.16(a)). Agency practice shows 30 days can be reasonable when an EA is prepared.

Comment: Project specific plan amendments. Some respondents expressed concern with the use of project specific plan amendments because they felt that they do not get sufficient analysis, review, public input, and may not use the best available science. A respondent felt these amendments should only be allowed for unforeseen events or special circumstances. Another respondent felt the supporting NEPA documentation should include a 'no amendment' alternative which accomplishes the proposed action without amending the plan.

Response: No change was made to this provision in the final rule. Project-specific amendments are short-lived with the project, and localized to the project area. The point of a project-specific amendment is to allow a project that would otherwise not be consistent with the plan to be authorized and carried out in a manner appropriate to the particular time and place of the project, without changing how the plan applies in other respects. Project specific amendments give a way to deal with exceptions. An exception is similar to a variance to a county zoning ordinance. If the amendment changed plan components that would apply to future projects, the exception would not be applicable. Section 219.16(b) requires use of the Agency's notification requirements used for project planning at 36 CFR parts 215 or 218 for project-specific of amendment.

Comment: Amending plans under existing regulations. A respondent felt the rule should allow for the option of amending existing plans under the existing planning regulations.

Response: Final rule § 219.17(b)(2) allows amendments to existing plans to be initiated for a period of 3 years under the provisions of the prior planning regulation. This provision is unchanged from the proposed rule.

Comment: Administrative changes. Some respondents felt allowing wilderness area boundaries to be changed with administrative changes was inappropriate. Some respondents felt changes to monitoring programs should not be done administratively as these changes should be transparent and have public accountability.

Response: Wilderness area boundaries may only be changed by an act of Congress, therefore a change to the wilderness area boundaries identified in the plan would only be made to conform the plan to the congressionally mandated change, with no discretion available to the responsible official or to the public. When there is no agency discretion, an administrative change to the plan is appropriate.

The rule requirements for administrative changes will facilitate more rapid adjustment of plans. The technical aspects of monitoring may need adjustment due to new information or advances in scientific methods, or a change may be needed to reflect a new monitoring partnership or for other reasons. The responsible official must involve the public in the development of the plan monitoring program and post notice of changes to the monitoring program online. If the change to the monitoring program is substantive, the public must be given an opportunity to comment. These requirements are intended to keep the public engaged and informed of the monitoring program, while allowing the program to build on new information and stay current.

Section 219.14—Decision Documents and Planning Records

This section of the rule requires the responsible official to record approval of a new plan, plan revision, or amendment in a decision document prepared according to Forest Service's NEPA procedures and this section. This section describes requirements for decision documents and associated records for approval of plans, plan amendments, or plan revisions. These requirements will increase the transparency of the decision and the rationale for approval, and require the responsible official to document how the plan complies with the requirements in this final rule.

This section also sets forth basic requirements for the responsible official to maintain public documents related to the plan and monitoring program. It requires the responsible official to ensure that certain key documents are readily accessible to the public online and through other means, and that the planning record be available to the public.

Section 219.14—Response to Comments

Comments on this section focused on the availability of documents. The Department largely retained the wording from the 2011 proposed rule; however,

the Department did make changes for consistency in this section to reflect changes made in other sections of the rule.

At paragraph (a)(2) the proposed rule wording of "An explanation of how the plan components meet the sustainability requirements of § 219.8 and the diversity requirements of § 219.9, taking into account the limits of Forest Service authority and the capability of the plan area" was modified to "An explanation of how the plan components meet the sustainability requirements of § 219.8, the diversity requirements of § 219.9, the multiple use requirements of § 219.10, and the timber requirements of § 219.11." The Department added the requirements to explain how plan components meet the requirements of §§ 219.10 and 219.11 to cover all the substantive requirements for plan components. The Department removed the words taking into account the limits of Forest Service authority and the capability of the plan area, because they are part of §§ 219.8–11 and § 219.1(g).

At paragraph (a)(4), the Department changed the wording from the proposed rule wording of "taken into account and applied in the planning process," to "how the best scientific information was used to inform planning, the plan components, and other plan content, including the plan monitoring program" to be consistent with the final rule wording of § 219.3. This change was made to make clear that § 219.3 applies to every aspect of planning, and the public must be able to see and understand how it has been applied. Additional minor edits were made for clarity.

Comment: Content of decision document. Some respondents felt these proposed requirements should be reduced to what is required by the NEPA. Others felt a discussion on multiple use and timber requirements per the NFMA, and use of best available scientific information should be included.

Response: The Council on Environmental Quality NEPA regulations at 40 CFR 1505.5 requires a record of decision to identify and discuss all factors and essential considerations of national policy which were balanced by the Agency in making its decision and state how those considerations entered into its decision. The plan only provides the management direction approved by the decision, while the decision document provides the rationale for the decision; therefore, the factors used in decisionmaking are most appropriate for the discussion in the decision document. The requirements of this section will help increase transparency and public understanding of the responsible official's decisions. Based on public comment, the Department added the multiple use requirements of § 219.10 and the timber requirements of § 219.11 to the list of items (§ 219.14(a)(2)) that the responsible official address in explaining how plan components meet the requirements of the rule. Section 219.14(a)(4) of the final rule also requires the decision document to document how the best available scientific information was used to inform the planning process, the plan components, and other plan content.

Comment: Availability of planning documents on the Internet. Some respondents supported the proposed requirement to make available online assessment reports; plan decision documents; proposed plans, plan revisions, or plan amendments; public notices and environmental documents associated with a plan; the monitoring program and monitoring evaluation reports. Some respondents felt the plan should also include all documents supporting analytical conclusions made and alternatives considered throughout the planning process source data, including GIS data, the monitoring program, and any plan revision. Some respondents made specific requests about when and how documents are made available online.

Response: Section 219.14(b)(1) of the final rule requires online availability of documents including assessments, the monitoring evaluation report, the current plan and proposed plan changes or decision documents, and any public notices or environmental documents associated with the plan. The final rule keeps the wording of the proposed rule that these documents must be "readily accessible" online; the expectation is that the documents would be posted as soon as they are finished and formatted for public viewing. Documents that require formal notifications will be posted when formal notice is made, if not before. In addition, the final rule requires that documents identified in § 219.52(c)(1) must be available online at the time of notification of the start of the objection period.

Making all data and information used in the planning process available online would be very time-consuming and expensive. However, to ensure that units continue to make all planning records available for those who may be interested, the final rule requires the responsible official to make all documents available at the office where the plan, plan revision, or amendment was developed. The final rule does not prohibit the responsible official from using other means of making documents available.

Comment: Availability of NEPA documents. Some respondents stated the final EIS supporting a plan should be made available no later than the start of objection process.

Response: The Department requires the objection process to begin after the NEPA documents are final and made available. Section 219.52(c) lists the required items that the public notice must contain in notifying the public of the beginning of the objection process including a draft plan decision document. In addition, the final rule requires that documents identified in § 219.52(c)(1) must be available online at the time of notification of the start of the objection period.

Section 219.15—Project and Activity Consistency With the Plan

This section of the final rule provides that projects and activities authorized after approval of a plan, plan revision, or plan amendment developed pursuant to the final rule must be consistent with plan components as set forth in this section. The NFMA requires that "resource plans and permits, contracts and other instruments for the use and occupancy of National Forest System lands shall be consistent with the land management plans" (16 U.S.C. 1604(i)). However, no previous planning rule provided specific criteria to evaluate consistency of projects or activities with the plan.

This section provides that every project and activity authorized after approval of a plan, plan amendment, or plan revision developed pursuant to the final rule must be consistent with the plan and the applicable plan components as set forth in this section. Project decision documents must describe how the project or activity is consistent with the plan. This final rule specifies criteria to use to evaluate consistency with the plan components.

The Agency has experienced difficulty in the past in determining how new plan components and content in a plan apply to projects and activities approved prior to the effective date of a plan amendment or revision. With respect to such projects and activities, the rule requires that: 1) the plan decision document must expressly allow such projects to go forward or continue, and thus deem them consistent, or 2) in the absence of such express provision, the authorizing instrument (permit, contract, and so forth) approving the use, occupancy, project, or activity must be adjusted as soon as practicable to be consistent with

the plan, plan amendment, or plan revision, subject to valid existing rights.

Other types of plans may be developed for the lands or resources of the planning area. These resource plans, such as travel management plans, wild and scenic river plans, and other resource plans, may be developed for the lands or resources of the planning area. This section requires that other resource plans be consistent with the land management plan and applicable plan components. If such plans are not consistent, modifications of the resource plan must be made or amendments to the land management plan must be made to resolve any inconsistencies.

Section 219.15—Response to Comments

The Department retained the wording of the proposed rule, except for three modifications. The Department clarified the first sentence of paragraph (a)(1) to say every decision document approving a plan, plan amendment, or plan revision must state whether authorizations of occupancy and use made before the decision document may proceed unchanged.

At paragraph (d), the Department added that every project and activity must be consistent with the applicable plan components and removed those words from § 219.7(d) of the proposed rule, because this provision is more appropriate in this section of the final rule.

At paragraph (d)(3), in response to comments received on the preferred alternative, the Department modified the direction for determining consistency with guidelines to make the Department's intent more clear. Paragraph (d)(3)(i) was modified to reflect the structure of the requirement for standards in paragraph (d)(2), and now reads: "Complies with applicable guidelines as set out in the plan." In paragraph (d)(3)(ii), the Department replaced "carrying out the intent" to "achieving the purpose" of the applicable guidelines.

The Department removed the wording at § 219.15(d)(3)(ii) of the proposed rule that repeated text from § 219.7(e)(1)(iv), to avoid duplication and because the reference to § 219.7(e)(1)(iv) is adequate.

Comment: Consistency requirement. Some respondents felt the proposed rule was too vague and unclear about project or activity consistency with the plan. They felt the rule needs specific criteria for determining if a project or activity is consistent with the plan, and achieving consistency may not be feasible unless guidelines are made mandatory.

Response: No previous planning rule provided specific criteria to evaluate consistency of projects or activities with the plan. The Forest Service policy was that consistency could only be determined with respect to standards and guidelines, or just standards, because an individual project alone could almost never achieve objectives and desired conditions. See the 1991 Advanced Notice of Proposed Rulemaking 56 FR 6508, 6519–6520 (Feb 15, 1991) and the 1995 Proposed Rule, at 60 FR 18886, 18902, 18909 (April 13, 1995).

The Department continues to believe that the consistency requirement cannot be interpreted to require achievement of the desired conditions or objectives of a plan by any single project or activity, but we believe that we can provide direction for consistency to move the plan area toward desired conditions and objectives, or to not preclude the eventual achievement of desired conditions or objectives, as well as direction for consistency with the other plan components.

This section requires that every project and activity authorized after the approval of a plan, plan revision or plan amendment must be consistent with the plan as provided in paragraph (d) of this section. Paragraph (d) specifies criteria to evaluate consistency, and requires that project approval documents describe how the project or activity is consistent. Given the very large number of project and activities, and the wide variety of those projects and activities, it is not feasible to provide any direction more specific than that set out in paragraph (d).

Section 219.16—Public Notifications

In this section, the final rule sets forth requirements for public notification designed to ensure that information about the planning process reaches the public in a timely and accessible manner. This section describes when public notification is required, how it must be provided, and what must be included in each notice. This section of the final rule is meant to be read with § 219.4 of the rule in mind, which sets forth direction for responsible officials to engage the public and provide opportunities for interested individuals, entities, and governments to participate in the planning process.

This final rule represents a significant new investment in public engagement designed to involve the public early and throughout the planning process. The Department is making this investment in the belief that public participation throughout the planning process will result in a more informed public, better plans, and plans that are more broadly accepted by the public than in the past. The requirements in this section respond to the consensus that people want to be informed about the various stages of the planning process, with clear parameters for when and how they can get involved.

Public input at several points during the development of the rule emphasized the importance of updating the way we provide notice to the public to ensure that we successfully reach a diverse array of people and communities and inform them about the process and how they could participate. Many people said that using only one outreach method would not reach all needed communities. In response, this section directs responsible officials to use contemporary tools to provide notice to the public, and, at a minimum, to post all notices on the relevant Forest Service Web site.

This section of the final rule provides that "notifications may be combined where appropriate." This provision would allow flexibility for plan amendments to have a more streamlined, efficient process than new plans or plan revisions, where appropriate. This approach is in keeping with the public's desire and the Agency's need for a process that allows plan areas to quickly and efficiently adapt to new information and changing conditions. (see § 219.13 for further discussion.)

Section 219.16—Response to Comments

The Department made the following changes to this section of the final rule:

In the introduction to paragraph (a) the Department changed the term "formal notifications" to "notifications." This change is a clarification.

The Department removed the requirement at paragraph (a)(1) for a formal notice for the preparation of an assessment, in response to public comments on the efficiency of the assessment process. A requirement for notice of opportunities to provide information for assessments is now in paragraph (c)(6) of this section: notice must be posted online, and additional notice may be provided in any way the responsible official deems appropriate.

The wording of paragraph (a)(1) in the final rule, formerly paragraph (a)(2) in the proposed rule, was modified to remove the words "when appropriate" before plan amendment. The change reflects the Department's intent in the proposed rule and responds to public comments about confusion over whether notice to initiate the development of plan amendments is required (it is). This change is not a change in requirement, this is a clarification.

At paragraph (c)(3) the Department added a new paragraph that requires that when the notice is for the purpose of inviting comments on a proposed plan, plan revision, or plan amendment, and a draft EIS is prepared, the Environmental Protection Agency (EPA) **Federal Register** notice of availability of an EIS shall serve as the required **Federal Register** notice. This change makes the procedure similar to the prior rule procedures and eliminates an additional **Federal Register** notice at the time of a DEIS.

At paragraph (c)(6), the Department modified "plan amendment assessments" to "assessment reports" in the list of public notices that may be made in any way the responsible official deems appropriate that was in paragraph (c)(5) of the proposed rule. This change clarifies how the public will receive notice of a completed assessment report. The word "additional" was added to the beginning of paragraph (c)(6) to make clear that, at a minimum, notice for the items in the paragraph must be posted online. This change is a clarification.

At paragraph (d), the Department added an exception for the content for public notices when the notice is for the purpose of inviting comments on a proposed plan, plan amendment, or plan revision for which a draft EIS is prepared. This change is necessary because of the change at paragraph (c)(3), stating that the **Federal Register** notice of availability for the draft EIS will serve as the required public notice. The EPA has a standard format for notices that does not include the requirements of paragraph (d). The public will be able to find the additional information online.

Comment: When appropriate. Some respondents felt proposed rule § 219.16(a)(2) wording "when appropriate" should be removed in reference to public notification of plan amendments.

Response: The final rule removes the wording "when appropriate" in relation to plan amendments in what is now § 219.16(a)(1) in the final rule, in response to public comment and to clarify the Department's intent from the proposed rule.

Comment: Notification. Some respondents felt the words "deems appropriate" in paragraph (c)(5) of the proposed rule should be removed, and requested clarification of what contemporary tools would be used. Some respondents requested direct notification, or notification of changes to a specific use. A respondent felt **Federal Register** notice should be mandatory for all plan amendments and any other notification such as administrative changes. Some respondents suggested changes to the proposed notification process to better inform those individuals and groups who would be most affected and interested in these activities. Some respondents felt that use of a newspaper of record is not effective since newspaper subscriptions are declining across the country.

Response: Section 219.16 of the final rule requires, at a minimum, that all public notifications must be posted online and the responsible official should use contemporary tools to provide notice to the public. These could include an array of methods, such as meetings, town halls, email, or Facebook posts. The best forms of notice will vary by plan area and over time, therefore the rule does not seek to predetermine what those tools might be. The wording "deems appropriate" in paragraph (c)(6) for the notices not listed in paragraph (a) allows the responsible official the flexibility to determine the notification method that best meets the needs of interested individuals, groups, and communities; therefore, it has been retained in the final rule.

Additionally, there are requirements outlined in (c)(1)–(5) for posting notices in the **Federal Register** and applicable newspaper(s) of record for the notices required in paragraph (a). The use of the **Federal Register** to give notice for all amendments and administrative changes would be inefficient for the Agency; therefore the requirements in paragraph (c) vary.

Persons desiring notification of changes to a specific use on a national forest or grassland should contact that office. A requirement for direct notification has not been added. The Department concludes that such a requirement would be unworkable, and that the forms of public notice required by this section, including the requirement that all notices be posted online, will enable informed and active public engagement.

Section 219.17—Effective Dates and Transition

This section of the final rule describes when approval of plans, plan revisions, or plan amendments would take effect and when units must begin to use the new planning regulations.

Section 219.17—Response to Comments

Many comments on this section focused on the efficiency of the process, clarity, and potential additional requirements. The Department retained the wording from the proposed rule except for the following changes:

The Department changed the wording of paragraph (a) of the proposed rule about effective dates of the proposed rule in response to public comments about the efficiency of the planning process. The final rule retains the requirement that a plan or plan revision, is effective 30 days after publication of notice of approval, and also retains that requirement for a plan amendment for which an EIS is prepared. The final rule removes the 30 day delay for amendments that do not require an EIS; such amendments are effective immediately upon publication of the notice of approval. This change in requirements improves the efficiency of amendments.

Paragraphs (b)(1)–(3) were modified slightly to reflect that the effective date of the final rule will be 30 days after the date of publication of the final rule in the **Federal Register**.

In paragraph (b)(2) of this section, the Department modified the wording and added a new first sentence to clarify that all new plan amendments initiated after the effective date of this rule must use the objections process of subpart B, even if the amendment is developed using the planning procedures of the prior planning regulation. This is a change made to require that subpart B apply to all plans, plan revisions and plan amendments initiated after the effective date of the final rule. In the rest of paragraph (b)(2) the Department: Revised the sentences to improve the ease, flow, and clarity of this paragraph, and clarified that when initiating plan amendments the optional appeal procedures are not available.

In paragraph (b)(3) of this section, the Department clarified that the objection process of subpart B of this part applies if the responsible official completing a plan process initiated prior to this part chooses objections instead of optional appeal procedures. This change was made to avoid confusion about which objection procedures would apply in that case (prior rule of December 18, 2009, or subpart B of this final rule). In addition, the Department clarified that the objection process of subpart B may be chosen only if the public is provided the opportunity to comment on a proposed plan, plan amendment, or plan revision, and associated environmental analysis. These clarifications are not a change in requirements.

In paragraph (c) the Department added wording in response to public comments to clarify that existing plans will remain in effect until revised, and that the final rule does not compel a

change to any existing plan, except as required in § 219.12(c)(1). In addition the Department added wording that none of the requirements of this part apply to projects or activities on units with plans developed or revised under a prior planning rule until the plan is revised under this part, except that projects and activities must be consistent with plan amendments developed under this final rule. These changes are not changes in requirements; the changes clarify the intent of the Department in the proposed rule. This paragraph in the final rule is needed for clarity so that all NFS units understand they are subject to the new planning rule for plan development, plan amendment, and plan revision, while still requiring NFS units to follow the plan provisions of their current plans.

Comment: Timing of compliance. Some respondents felt the rule should establish a time limit beyond which any action which is being performed under a previous regulation must be brought into compliance with this part, and the responsible official should not have discretion to apply prior planning regulation in completing a plan development, plan amendment, and plan revisions initiated before the effective date of this part. A respondent felt newly started plan amendments should follow the new planning direction without exception. Another respondent felt the rule should allow the option of amending existing plans under either the existing planning regulations or the new planning rule requirements until the current plan is revised under the new rule. Some respondents felt the rule's transition provisions should state the Agency will operate under existing plans until all legal challenges to a new plan or plan revision are resolved to avoid disruption of existing contracts.

Response: There is no transition period for new plans or plan revisions initiated after the effective date of the final rule: all new plans and plan revisions must conform to the new planning requirements in subpart A. Plan revisions that are currently ongoing or initiated prior to the effective date of the final rule may be completed using either the previous rule or the final rule. Many of the ongoing plan revision efforts have taken many years, and it could be expensive in terms of both time and costs to require them to follow the new procedures, in addition to delaying needed improvements to outdated plans. It could also be unfair to the public who have invested time in these efforts. The responsible official does have the discretion to conform an ongoing revision effort to the requirements of the new rule after providing notice to the public, if doing so would be feasible and appropriate for that effort.

For amendments, there would be a 3-year transition window during which amendments may be initiated and completed using the 2000 rule, including the 1982 procedures via the 2000 rule's transition provisions, or may conform to the new rule. After 3 years, all new plan amendments must conform to the new rule. This transition period for new amendments would give the responsible official the option to facilitate amendments for plans developed under previous rules for a limited time, using a familiar process, until full familiarity with the new rule develops.

Plan decisions will not be approved until the Agency has resolved any objections filed under subpart B. This delay of the effective date until after the objections are resolved should adequately avoid disruptions. Many legal challenges to plans go on for years, however, and it would not be workable to wait to implement a plan until after all legal challenges are resolved.

Comment: Climate change requirements for 1982 revisions. A respondent felt the rule's transition provisions should require forests currently planning revisions under the 1982 planning rule to consider climate change impacts and actions to address climate change and to reduce stressors to provide for greater habitat resiliency.

Response: The Department decided not to include this requirement in the transition provisions of the final rule. However, all NFS units are working to implement the climate change roadmap released in 2009, and are using the climate change scorecard, which requires consideration of climate change impacts, vulnerability, and adaptability, as well as monitoring and other requirements. The Department decided that the Roadmap and Scorecard implementation is the most appropriate method for working to address climate change in plan revisions currently being conducted under the 1982 rule.

Comment: Conflicts between rules. A respondent felt the proposed rule's transition section is confusing because there will be situations where the old rule can be in conflict with the new rule and the final rule should therefore include guidance to handle those conflicting situations. Another respondent also felt the entire section needs more clarity.

Response: The transition provision is important to provide a smooth change to the new rule, and is workable. Changes were made as described above to improve clarity.

Comment: Planning schedule for revisions. A respondent felt the rule should establish some schedule by which overdue plans, or ones due within the next year or two, will be revised as currently 68 plans of 127 plans are past due for revision.

Response: The Agency does not have the resources to revise all 68 plans that need revision within the next few years. The Agency posts the Chief's schedule for plan revision online at *http://www.fs.fed.us/emc/nfma/index.htm.*

Comment: Compliance with regulatory scheme. A respondent felt the Forest Service should eliminate the proposed rule § 219.2(c) (none of the requirements of the final rule applies to projects) and § 219.17(c) (projects completed under existing forest plans need only be consistent with the plan and not the 1982 rule). They believe the provisions are inconsistent with case law. They cite several judicial decisions. Another respondent felt § 219.17(c) of the proposed rule allows plans to be revised free of any obligation to demonstrate compliance with the regulatory scheme under which it was developed.

Response: The Ninth Circuit and Tenth Circuits Court of Appeals have confirmed the Agency's position that the 1982 rule was superseded by the 2000 Rule, and no longer applies. See, *Land Council* v. *McNair,* 537 F. 3d 981, 989 n. 5 (9th Cir. 2008); *Forest Guardians* v. *U.S. Forest Service,* 641 F. 3d. 423 (10th Cir. 2011). This provision is needed for clarity so that all NFS units understand they are subject to the new planning rule for plan development, plan amendment, and plan revision, but otherwise are governed by the plan provisions of their current plans. Responsible officials, who continue plan development, revisions or amendments initiated prior to the effective date of the final rule using the procedures of the 1982 rule, must comply with the 1982 rule procedures in developing those plans, plan revisions or amendments. Plan amendments initiated after the effective date of this rule, may for three years follow the 1982 rule procedures or the requirements of this rule for amendments.

Comment: Delay of project-specific plan amendments. Some respondents felt the rule should require a 30-day delay for the effective date of all project-specific plan amendments, as plan amendments are significant actions and no amendment may apply only to a single concurrent project.

Response: Not all plan amendments are significant actions. The final rule does not require a 30 day-delay for project-specific plan amendments, and provides for site-specific project amendments, in keeping with the Department's intent that the amendment process be efficient and used more frequently.

Section 219.18—Severability

If any part of this final rule is held invalid by a court, this section provides that the invalid part would be severed from the other parts of the rule, which would remain valid.

Section 219.18—Response to Comments

This section explains that it is the Department's intent that the individual provisions of the final rule be severable from each other. The Department retains the 2011 proposed rule wording in the final rule.

Comment: Invalidation of entire rule. A respondent felt if any part of the proposed rule is judged invalid by a court the rule should state the entire rule is invalid.

Response: The Department retained the provision in the final rule, because rulemaking is an extensive Departmental and public undertaking, and the entire rule should not be dismissed if a court finds only a portion of the rule is inappropriate.

Section 219.19—Definitions

This section sets out and defines the special terms used in the final subpart A. Changes to this section were made in response to public comments.

The Department added definitions for: best management practices, candidate species, conserve, disturbance regime, ecological integrity, inherent capability of the plan area, integrated resource management, maintain, management system, native species, persistence, proposed species, recreation opportunity, restore, recovery, riparian management zone, scenic character, and stressors for clarity and to define new terms.

The Department removed definitions for: Health(y), landscape character, potential wilderness areas, and resilience, because the terms are not used in the final rule. The Department moved a modified definition of species of conservation concern from § 219.19 to § 219.9. The Department removed the definition of system drivers, because the term is defined in the rule in § 219.6 as disturbance regimes, dominant ecological processes, and stressors—including wildland fire, invasive species, and climate change.

The Department modified the definitions for: assessment, collaboration, connectivity, conservation, designated areas, ecological conditions, ecosystem, focal species, landscape, multiple use, recreation setting, restoration, riparian areas, sole source aquifer, sustainability, and sustainable recreation to improve clarity.

The Department modified the definition of "ecosystem" to further explain and describe the key characteristics related to ecosystem composition, structure, function, and connectivity so the relationship between monitoring questions and indicators are clearly related to the ecological conditions of §§ 219.8 and 219.9.

Section 219.19—Response to Comments

Comment: Definitions for various terms. Some respondents felt more detailed definitions or explanations about specific terms should be included in the rule, including: access, aesthetic value, air quality, capability, clerical error, concurrence, coordination, cultural images, cultural sustenance, decision document, documented need, ecological integrity, educational, evaluation, extent practicable, feedbacks, fiscal capability of the unit, grasslands, identify, Indian, interested parties, irreversible damage, landscape character, no reasonable assurance, opportunity, partners, reasonably foreseeable budgets, renewable energy projects, renewable resources, scenic attractiveness, scenic integrity, small-scale reasonably foreseeable risks, spatial mosaic, spiritual, substantial and permanent impairment, sustainable management of infrastructure, transportation and utility corridors, valid existing rights, and watershed conditions.

Response: Some of the requested definitions were included in the final rule, where including a definition provides additional meaning or clarity, or where the term is uncommon terms or used with a specific meaning. Other requested definitions were not included, either because the term was not included in the final rule, or the Department used the terms in their ordinary meaning.

Comment: Requests for inclusion of definitions. Some respondents felt additional definitions should be included in the rule, including: airstrip, alternate disputes resolution methods, animal welfare, appropriately interpreted and applied, biodiversity, biological integration, completeness or wholeness, cost effectiveness, cost efficiency, default width, ecological unit, ecologically sustainable, economic efficiency, efficiency, environmental justice, healthy and resilient ecosystem, incidental recreation, Indian land, internal trailheads, materially altered, measureable progress, national historic trails, net public benefits, non-Tribal indigenous entity, primitive road, reasonable basis, recreational values, roadless area, scenic landscape character, science-based understanding, silviculture, soundscape, substantive way, sustainable multiple uses, and timely manner.

Response: The final rule either does not use the term; therefore, a definition is not provided or the final rule uses the commonly understood meaning, making definition unnecessary.

Comment: Definition of assessment. A respondent felt the definition of assessment should be revised to allow for the development of new information if and when it is necessary for a successful assessment.

Response: The Department has modified the definition to be clear that an assessment is to focus on and rapidly evaluate existing information to provide an informed basis and context for initiating a change to a plan or plan development. The need for new information may be identified in the assessment report, but development of new information is not required or intended during the assessment process.

Comment: Definition of collaboration processes. A respondent felt the Agency should define collaborative process. A respondent requested the Agency add the concept of feedback to collaboration definition.

Response: The proposed rule defined collaboration; the final rule defines both collaboration and collaborative process using the proposed rule's definition of collaboration. The definition is unchanged except that the last sentence of the proposed rule's definition was moved to § 219.4. The concept of feedback is indirectly included in the proposed rule definition. The concept of feedback is an important part of why the Department supports an adaptive framework that provides meaningful opportunities for public participation early and throughout the process. The moved sentence clarifies that under collaboration the Forest Service retains decisionmaking authority and responsibility for all decisions throughout the process.

Comment: Definitions for congressionally designated areas and administratively designated areas. A respondent felt separating of congressionally designated and administratively designated areas through the definition would help in clarifying their differences, including a

definition for national scenic and historic trail. A comment was received on the preferred alternative, asking if the lists in the definition of designated areas were exhaustive.

Response: The Department clarified the definition of designated areas in the final rule. The definition encompasses both congressionally and administratively designated areas, and provides examples of areas that are designated by each process. National scenic trails are referenced as one of the examples of a designated area, but a separate definition was not added to the final rule. The final rule provides direction for wilderness and wild and scenic rivers in § 219.10(b) separately from other designated or recommended areas because their associated legislation contains specific requirements for the Secretary of Agriculture. The final rule in § 219.10(b)(vi) provides for appropriate management of other designated or recommended areas, which would include areas such as congressionally designated national historic trails. To respond to the comment on the preferred alternative, the Department clarified the definition of designated areas to explicitly show that the list of examples is not exhaustive by removing the word "include" and added the words: Examples of * * * designated areas are.

Comment: Definition of connectivity. Some respondents felt the definition should remove the word "separate" so that it includes connectivity both within and between national forests at multiple scales, reflecting the disparate needs of different species with different capacities for mobility. A respondent said the term is not appropriate because it might trigger counterproductive litigation.

Response: Connectivity is an important part of the concept of ecological integrity. The Department therefore retained the term in the final rule, and modified it in response to public comments. The Department modified the definition of connectivity, removing the words that would limit the concept to "separate national forest or grassland areas." The final rule definition is worded to apply to several scales and to identify the types of the biophysical aspects of ecological functions that the term encompasses.

Comment: Definition of conservation. Respondents felt the proposed rule definition fails to include elements of resource use and wise use, or should not include preservation or should not include management.

Response: The Department retains the definition of conservation because the definition is consistent with the use of the term in the rule. However, the Department added species to the list of resources included in the definition so that conservation is defined as the protection, preservation, management, or restoration of natural environments, ecological communities, and species.

Comment: Definition of disturbance. A respondent felt the definition of disturbance should go beyond biological resources and extend to cultural, historic, recreational, and aesthetic resources as well.

Response: In the final rule, the concept of disturbance is limited to any disruption of an ecosystem, watershed, plant and animal community, or species population: therefore the Department retained the proposed rule definition. Such disturbance may result in impacts to cultural, historic, recreation, aesthetic, or other resources or uses.

Comment: Definition of diversity. A respondent felt the rule needs a definition of "diversity." One respondent requested a definition of biodiversity.

Response: When the term diversity is used alone in the rule, its meaning is the commonly understood use of the term and therefore no rule definition of the term is necessary. The final rule retains a definition of the term ecosystem diversity. The term biodiversity is not in the rule, and therefore no definition of that term is needed.

Comment: Definition of ecosystem services. Some respondents felt specific aspects of services should be included in the definition. Other respondents felt the proposed definition is too limiting to "direct human utility." A respondent felt the proposed rule definition mixes services with uses and resources, making the term "ecosystem services" confusing.

Response: The final rule retains the proposed definition, which focuses on the "benefits people obtain from ecosystems." The definition is consistent with the MUSYA mandate to "administer the renewable surface resources of the national forests for multiple use and sustained yield of the several products and services obtained therefrom" (16 U.S.C. 529), and allows for changing conditions and needs.

Comment: Definition of focal species. A respondent felt the definition of focal species is too narrow: it should not be limited to a small number because of fiscal capability.

Response: The Department changed the definition of focal species based on public comment to clarify the intended role of focal species in assessing the effectiveness of the plan in maintaining the diversity of plant and animal communities in the plan area, as required in § 219.9. The Department retained the concept of a small number in the final rule because the responsible official has discretion to choose the small subset of focal species that he or she determines will be useful and reasonable in providing the information necessary to make informed management decisions. The Department does not expect a focal species to be selected for every element of ecological conditions.

Comment: Definition of integrated resource management. Several respondents felt the phrase "integrated resource management" needed to be defined.

Response: In the final rule the term has been defined as multiple-use management that recognizes the interdependence of ecological resources and is based on the need for integrated consideration of ecological, social, and economic factors. The approach of integrated resource management considers all relevant interdependent elements of sustainability as a whole, instead of as separate resources or uses. "Integrated resource management" is not the same as the "all-lands approach." "Integrated resource management" refers to the way in which the resources are to be considered, as a whole instead of by individual resource. The "all-lands approach" refers to the area of analysis for the planning phases, which can extend beyond the national forest and grassland boundary.

Comment: Definition of landscape. A respondent felt landscapes should not be defined as being irrespective of ownership.

Response: The Department recognizes and respects ownership boundaries. The definition applies to a perspective for assessment purposes for resources and influences that may extend beyond the NFS boundary. The Department retained the landscape term in the final rule because conditions and trends across the broader area may influence, or be influenced by projects or activities on NFS lands. Plan components would apply only the NFS lands, but the responsible official should be informed by an understanding of the broader landscape when developing plan components.

Comment: Definition of local and indigenous knowledge. Some respondents felt the rule should provide a definition for local and indigenous knowledge, and this knowledge should not be considered on the same level as scientifically- or historically-based information.

Response: Section 219.19 of the final rule retains the proposed rule's

definition for native knowledge. The final rule requires the use of the best available scientific information to inform decisions. The final rule strikes a balance for using science as an integral and foundational, but not the sole, influence on planning, allowing for other sources of information or input, including native knowledge, to be considered during the planning process.

Comment: Definition of monitoring. A respondent felt the definition of monitoring should be revised to capture the concept of measuring the response of resources to land management over time. Another respondent felt the definition should include the concepts of inventory, continuity, desired conditions, public participation, and open and transparent process.

Response: The final rule revised the proposed rule definition to remove the words "over time and space" to ensure that the definition is broad enough to incorporate the concept of measuring the response of resources to land management over time, or at a single instant, at a broad geographic scale, or at a specific location, depending on the objective for an individual monitoring question or indicator. The rule framework itself is based on the concept that the set of monitoring questions and indicators that make up the monitoring program will be used to inform adaptive management on the unit over time. The terms that the commenter wishes added to the definition are key concepts and terms in the rule, but adding them to the definition of monitoring is unnecessary.

Comment: Multiple use definition. Some respondents requested specific inclusions and exclusions from the definition of "multiple use. Other respondents requested more detailed definitions or explanations about specific terms associated with § 219.10 Multiple use, such as access, aesthetic value, small-scale renewable energy projects and transportation and utility corridors.

Response: The definition does not reference specific uses or services. The definition was established by Congress at 16 U.S.C. 531. The type of direction requested by the respondents is more appropriate as part of the specific requirements of the final rule, as part of plans, or as part of projects or activities carried out under the plans.

Other terms used in § 219.10 are defined where necessary; see the first response to comments in this section for additional discussion.

Comment: Definition of participation. A respondent felt that the definition of participation be defined as engagement in activities.

Response: The Department retained the proposed rule definition for participation because the Department cannot require engagement; but it can offer participation opportunities.

Comment: Definition of productivity. A respondent felt the current definition of "productivity" should be amended to include economic productivity.

Response: The Department's use of the term productivity in the rule does not include economic productivity; therefore, the proposed rule definition is retained in the final rule.

Comment: Definition of restoration. Several respondents felt the definition should not include the concept of going back to ecosystem conditions that once existed, especially under changing climatic conditions. Still others felt that the definition should be clearer and more in line with definitions found in the scientific literature.

Response: The final planning rule adopts the definition advanced by the Society for Ecological Restoration International, but retains from the proposed rule (with minor word changes) the additional explanation that ecological restoration focuses on reestablishing the composition, structure, pattern, and ecological processes necessary to facilitate terrestrial and aquatic ecosystem sustainability, resilience, and health under current and future conditions. Chapter 3 of the Final PEIS discusses the relevance of evaluating the range of natural variation in the "Historical Range of Variability (HRV) as a Way of Understanding the Historical Nature of Ecosystems and Their Variation" under the "Dynamic Nature of Ecosystems" portion of the Affected Environment discussion.

Comment: Definition of riparian area vs. riparian management zones. Some respondents felt the use of the terms "riparian areas" and "riparian management zones" between the preamble and the proposed rule were inconsistent. Some felt the proposed definition of riparian areas was outdated and did not reflect current science and understanding of riparian areas function and management.

Response: The final rule rewords the proposed rule's definition for "riparian areas" and adds a definition for "riparian management zone." Riparian areas are ecologically defined areas of transition between terrestrial and aquatic systems and have unique characteristics, values, and functions within the landscape. Riparian management zones are portions of watersheds areas where riparian-dependent resources receive primary emphasis. "Riparian areas" are defined in physical and biological terms; riparian management zones are defined in administrative terms. A riparian area and a riparian management zone would overlap, but one may be wider or narrower than the other.

Comment: Definition of risk. A respondent felt the definition of "risk" should refer to "probability" and "magnitude."

Response: The Department retains the definition of the proposed rule for risk because "probability and magnitude" are equivalent to "likelihood and severity" in the proposed rule definition, which is "a combination of the likelihood that a negative outcome will occur and the severity of the subsequent negative consequences."

Comment: Definition of social science. A respondent felt the final rule should define social science.

Response: The term "social science" was not in the proposed rule and is not in the final rule, and therefore need not be defined. The final rule includes reference to social sustainability in the definition for sustainability.

Comment: Definition of stressor. A respondent felt the Agency should define the term stressor.

Response: The Department defines the term stressor in the final rule as a factor that may directly or indirectly degrade or impair ecosystem composition, structure, or ecological process in a manner that may impair its ecological integrity, such as invasive species, loss of connectivity, or the disruption of a natural disturbance regime.

Comment: Definition of sustainable recreation. A respondent felt the term was defined vaguely and should be deleted from the rule. A respondent felt ecosystem services and sustainable recreation are equivalent concepts but defined differently so that it is confusing. A respondent felt the definition should include the predictability of opportunities, programs, and facilities over time. A respondent said the definition should include ecologically sustainable, economically sustainable, fiscally sustainable, socially sustainable, and be focused on outcomes. A respondent objected to the inclusion of the undefined term "social sustainability" in the definition of sustainable recreation, because social sustainability might be an opportunity to remove hunting and fishing from the NFS.

Response: The Department decided to keep the term but modify the definition for clarity. The definition in the rule is: "the set of recreation settings and opportunities on the National Forest System that is ecologically, economically, and socially sustainable

for present and future generations." In addition, the Department defined the terms economic sustainability and social sustainability as part of the definition of sustainability. The socially sustainable part of sustainable recreation (when considered within the boundaries of the NFS, which is how we have now defined it) deals largely with addressing conflicts between uses.

The Department's use of the term socially sustainable is intended to give the opposite direction as the respondent's concern, leading to support for hunting and fishing opportunities because hunting and fishing are important to sustain traditions and connect people to the land and to one another.

Comment: Definition of viable population. Some respondents felt the rule should replace "sufficient distribution to be resilient and adaptable" in the proposed definition and incorporate the phrase "well-distributed in habitats throughout the plan area" and "high likelihood" over a specified time period (50 years) into the definition of viable population.

Response: See the response to comments to section 219.9 for a discussion of the term well-distributed.

The final planning rule does not specifically incorporate "high likelihood" or a specified time period into the definition of viable population because it is difficult to interpret and measure consistently and because estimating the probabilities of maintaining a viable population of a particular species of conservation concern over a certain period time will vary from species to species and from unit to unit, depending on existing conditions and potential existing and future threats and stressors, especially those related to climate change, that may affect species differently on different NFS units.

Subpart B—Pre-Decisional Administrative Review Process

Introduction to This Subpart

Subpart B sets forth the requirements for the objection process in this final rule.

Prior to the 2000 rule, the administrative review process for plan decisions provided an opportunity for a post-decisional appeal. With this process, a plan was generally put into effect before the appeal was resolved. This scenario has often been problematic because when reviewing appeals, if a reviewing officer finds fault with a plan already in effect, the remedy can be costly to both the Forest Service and the public in terms of time and money. Such a situation can also damage public trust in the planning process. Interim direction is often put into place while the responsible official prepares further analysis and other appropriate corrections.

After receiving initial public input, reviewing public comments, and taking into account agency history and experience regarding pre- or post-decision administrative appeal processes, the Department decided to include a pre-decisional administrative review process, called an objection process, in the final rule. An objection prompts an independent administrative review by an official at a level above the deciding official and a process for resolution of issues. This process allows interested individuals to voice objections and point out potential errors or violations of law, regulations, or agency policy prior to approval and implementation of a decision. The Forest Service has successfully used a similar process since 2004 for administrative review of hazardous fuel reduction projects developed pursuant to the Healthy Forests Restoration Act.

Section 219.50—Purpose and Scope

This section states that the purpose of the subpart is to establish a process for pre-decisional administrative review of plans, plan amendments, and plan revisions.

Section 219.50—Response to Comments

This subpart describes a pre-decisional administrative review (objection) process for plans, plan amendments, or plan revisions. The Department retains the 2011 proposed rule wording in the final rule of § 219.50. To respond to comments on the preferred alternative, the Department changed the wording in § 219.50 and throughout subpart B to clarify that the parties that may object include States and Tribes as well as organizations and individuals. The preferred alternative and the proposed rule used the terms "individual" and "organization" for those who may file an objection. States and Tribes are not organizations; therefore, the Department changed the term "organization" to "entity" in sections 219.50, 219.53, 219.55 and 219.61. These modifications to subpart B are clarifications, not changes in requirements,

Comment: Objection process over appeals process. Some respondents expressed support for the objection process while some respondents want the objection process removed and replaced with the appeals process, or want to see both processes used.

Response: The Department's choice of this approach is based on two primary considerations. First, a pre-decisional objection is more consistent with the collaborative nature of this final rule and encourages interested parties to bring specific concerns forward earlier in the planning process, allowing the Forest Service a chance to consider and respond to potential problems in a plan or decision before it is approved and implemented. Second, pre-decisional objections lead to a more timely and efficient planning process, reducing waste of taxpayer and agency time and dollars spent implementing projects under plans subsequently found to be flawed.

With a pre-decisional objection process, the responsible official, the reviewing official, interested parties, and the objector have the opportunity to seek reasonable solutions to conflicting views of plan components before a responsible official approves a plan, plan amendment, or plan revision. This approach fits well with a collaborative approach to planning, and encourages resolution before a plan, plan amendment, or plan revision is approved.

The Department believes that having both a pre-decisional objection process and a post decision appeals process would be redundant and inefficient.

Section 219.51—Plans, Plan Amendments, or Plan Revisions Not Subject To Objection

This section identifies those plans, plan amendments, or plan revisions that would not be subject to the pre-decisional objection process under the final rule.

Section 219.51—Response to Comments

The Department retains the 2011 proposed rule wording in the final rule except to change the term formal comments to substantive formal comments. This change was made throughout this subpart.

Comment: Secretary decisions subject to administrative review. Some respondents felt decisions made by the Secretary or the Under Secretary for Natural Resources and Environment affecting the Forest Service should be subject to administrative review.

Response: Land management plan decisions made by the Secretary or Under Secretary for Natural Resources and Environment have never been subject to appeal or objection. The Department chooses not to change this approach. The Agency anticipates that approvals of plans, plan amendments, or plan revisions by the Secretary or

Under Secretary will continue to be rare occurrences.

Section 219.52—Giving Notice of a Plan, Plan Amendment, or Plan Revision Subject To Objection Before Approval

Section 219.52 provides additional information for providing the public notice, required by § 219.16 subpart A, that would begin the objection filing period. This notice serves three particular purposes: (1) To notify parties eligible to file objections that the objection filing period is commencing; (2) to notify parties eligible to file objections and others of the availability of planning documents and how to obtain those documents; and, (3) to establish a publicly and legally verifiable start date for the objection filing period.

Section 219.52 would require the Forest Service to make a special effort to ensure the public understands how the objection process in this subpart would be used for each plan, plan amendment, and plan revision. Specifically, the responsible official would be required to disclose the objection procedures by stating that this process will be used during scoping under the NEPA process and in the appropriate NEPA documents. Early disclosure will help ensure that those parties who may want to file objections are aware of the necessary steps to be eligible.

The final rule also requires the responsible official to make the public notice for beginning the objection filing period available to those who have requested the environmental documents or who are eligible to file an objection. This requirement is intended to ensure that the necessary information reaches those who have specifically requested it and those who could have a particular interest in the start of the objection filing period by virtue of their eligibility to file an objection.

Paragraph (c) outlines the format and content of the public notice to ensure potential objectors have necessary procedural information, can find underlying documents, and understand the process, timing, and requirements for filing an objection.

Section 219.52—Response to Comments

Changes were made to wording in this section to be consistent with changes made in response to public comments on other sections in this subpart, including changing the term "formal comments" to "substantive formal comments" and the objection periods from 30 days in the proposed rule to 45 days, or 60 days if an EIS was prepared.

The Department added a sentence to paragraph (a) of this section to allow the responsible official to choose to use the objection process for a plan, plan amendment, or plan revision initiated before the effective date of the rule even when the scoping notice had not indicated that an objection process would be used. To ensure meaningful notice is given, however, the notice that the objection process will be used must be given prior to an opportunity to provide substantive formal comment on a proposed plan, plan amendment, or revision and associated environmental analysis.

A requirement to make the documents identified in paragraph (c)(1) of this section available online at the time of public notice was added for clarity, to reflect the Department's intent.

Comment: Notice of a plan, plan amendment, or plan revision subject to objection. Some respondents felt "making available" the public notice for the beginning of the objection period for a plan, plan amendment, or plan revision was not adequate notification.

Response: Section 219.16(a)(3) of subpart A requires formal notification of the beginning of the objection period by posting the information online, and via the **Federal Register** and/or the newspaper of record as set forth in § 219.16(c). The term "making available" is used in this section to allow the responsible official the flexibility to use other tools at his or her disposal for notification, for example, sending an email to a list of interested parties or issuing a news release, in addition to the formal notifications identified in § 219.16.

Comment: Specific date for the start of the objection process. Some respondents felt there is a need for a specific publication date for the beginning of the objection period.

Response: The Department believes the matter is best addressed by having the objection filing deadline begin the day after publication of the public notice as outlined in § 219.56(b)(2). Although the Agency can request newspapers publish notices on a certain date, a publication date is not guaranteed. When publication occurs on a different date than estimated, the result could lead to confusion. By not publishing a (potentially different) starting date, the Department believes the potential for confusion is reduced or eliminated and leaves all parties with the same information.

Comment: Need to guess and predict decision. Some respondents said the objection process forces the public to guess and predict what the actual decision will be.

Response A draft plan decision document is one of the items § 219.52 (c) requires to be made available to the public when public notice of the beginning of the objection process is given. If no objections are filed, the draft, once signed would become the decision. If an objection is filed, there may be changes made for the final decision. The objection process allows objectors and interested parties to meet with the reviewing officer to try to resolve issues raised in an objection before a final plan decision. This process is more efficient and more consistent with the participatory approach used in the final rule.

Section 219.53—Who May File an Objection

This section of the rule identifies eligibility requirements for filing an objection under this subpart. This section is written in the context of § 219.4 in subpart A, which expresses the Agency's intent to involve the public early and throughout the planning process in keeping with the collaborative nature of this final rule.

Section 219.53—Response to Comments

Except for minor corrections of editorial errors, the Department retains the proposed rule wording. The Department changed the term "formal comments" to "substantive formal comments." In the proposed rule, we used both terms; in the final rule, we used the term "substantive formal comments" consistently throughout. The Department clarified in paragraph (a) that objections must be based on previously submitted substantive formal comments "attributed to the objector" to be consistent with § 219.54(c)(7). As discussed in response to comments for § 219.50, the Department changed the term "organizations" to "entities" in this section. These changes are not changes in requirements, but are clarifications.

Comment: Substantive formal comment. Some respondents requested the rule define "substantive formal comment."

Response: The proposed rule included a definition for "formal comments." The final rule includes instead a definition of "substantive formal comments," the term used throughout this subpart in the final rule, at § 219.62 of the final rule, in response to this comment. The definition is consistent with the definition used in Agency appeal regulations 36 CFR part 215 for "substantive comment."

Comment: Who may file an objection? Some respondents felt limiting the opportunity for filing an objection to

those who have participated in providing substantive formal comments was the correct approach. Other respondents felt anyone should be able to file an objection.

Response: The rule requires the responsible official to engage the public early and throughout the planning process in an open and transparent way, providing opportunities for meaningful public participation to inform all stages of planning. The requirement for limiting the opportunity for filing an objection to those who have provided substantive formal comments during at least one public participation opportunity is intended to encourage public engagement throughout the planning process and help ensure that the Agency has the opportunity to hear and respond to potential problems as early as possible in the process. Without this requirement some substantive problems might not be identified until the end of the planning process.

This requirement will increase the efficiency of the planning process and the effectiveness of plans by encouraging early and meaningful public participation. Engaging the public early and often results in better identification of issues and concerns and allows the Agency to respond earlier in the process and in a way that is transparent to all members of the public.

Comment: Substantive comment submittal requirement. Some respondents felt the proposed rule requirement for participation by a formal comment submittal in order to file an objection is an undue burden on the public because organizations and individuals with limited resources cannot be expected to participate in all public involvement opportunities. Others felt it places an unreasonable limitation on the ability of citizens to participate in the objection process. Still others disagree with the basic concept of not submitting formal comments equates to not having an opportunity to object.

Response: Because the final rule requires significant investment in providing opportunities for public participation, the Department believes it is important to honor that process and ensure that issues arise as early in the process as possible, when then can best be addressed. The Department does not believe it is too high a burden for a potential objector to first engage in and provide formal substantive comments during at least one of the numerous opportunities for public participation during the planning process for a plan, plan amendment, or plan revision. Subpart B does not require participation in every one of those opportunities. This requirement should assist in the timely involvement of the public. The objection process is expected to resolve many potential conflicts by encouraging resolution before a plan, plan amendment, or plan revision is approved.

Comment: Objection eligibility. Some respondents felt the objection process forces the public to submit comments on everything in order to preserve their right to object based on submitted comments. A number of respondents stated objections should be permitted on issues raised by any party at any time.

Response: The planning process is intended to engage interested individuals and entities in an ongoing dialogue in which all substantive issues and concerns are identified. The Department decided to retain the requirements in this section to make sure that issues are identified as early as possible, by the parties interested in those issues. At the same time, this subpart recognizes that there may be issues that arise after the opportunities for public comment, and allows parties who have participated earlier to object on those issues.

Comment: Objections by other Federal agencies and Federal employees. A respondent stated that objections from other Federal agencies should be allowed. Another respondent stated that a Federal employee should be allowed to file an objection and should be allowed to include and discuss non-public information in their objection.

Response: The objection process is an administrative review opportunity for individuals and entities, other than Federal agencies. Federal agencies have other avenues for working together to resolve concerns, including consultations required by various environmental protection laws. It is expected that Federal agencies will work cooperatively during the planning process.

Federal employees who meet eligibility requirements of § 219.53(a) and choose to file an objection may do so, but not in an official capacity. They must not be on official duty or use Government property or equipment in the preparation or filing of an objection, nor may they include information only available to them in their official capacity as Federal employees.

Section 219.54—Filing an Objection

This section of the final rule sets out how to file an objection, and the minimum content that must be included.

Section 219.54—Response to Comments

Minor changes were made to this section in response to public comment. Paragraph (a) was changed to clarify that all objections must be submitted to the reviewing officer for the plan. The Department added "other published Forest Service documents" to (b)(2) of this section to indicate that, along with Forest Service Directives System documents and land management plans, published Forest Service documents may be referenced rather than included in an objection. The Department also clarified in Paragraph (b) that any documents not listed in (b)(1)–(4) that are referenced in an objection must be included with the objection or a web link must be provided. These minor changes and clarifications reflect public comments.

Comment: Proposed prohibition on incorporation by reference. Some respondents felt the proposed prohibition on incorporation by reference is unduly burdensome. Some felt the wording on what references are required to be included in an objection were unclear.

Response: Section 219.54(b) of the final rule retains the proposed rule wording. The Department believes the requirements are clear, and will help the reviewing officer understand the objection and review it in a timely way. The documents that can be included by reference include: Federal laws and regulations, Forest Service Directives System documents, land management plans, and other published documents, documents referenced by the Forest Service in the planning documentation related to the proposal subject to objection, and formal comments previously provided to the Forest Service by the objector during a proposed plan, plan amendment, or plan revision comment period. The final rule was modified to allow for published Forest Service documents to be included by reference as well. All documents not identified in the list in § 219.54(b), or Web links to those documents, must be included with the objection, if referenced in the objection.

Comment: Internet submission of objections. Some respondents felt the rule should allow filing of objections via Internet communication.

Response: An email submittal to the appropriate email address is an acceptable form of filing an objection.

Comment: Remedy inclusion requirement. Some respondents felt requiring inclusion of a potential remedy presents an obstacle for participation in the objection process.

Response: The objection process sets the stage for meaningful dialogue on how a proposed plan, plan amendment, or plan revision could be improved. The objection, including suggesting about how the proposed plan may be improved, can be concise, but should provide a basis for dialogue to resolve concerns. The reviewing officer should be able to use the objection to engage with the objector and other interested parties during the objection period to determine an appropriate course of action.

Section 219.55—Objections Set Aside From Review

This section describes the various circumstances that would require a reviewing officer to set aside an objection from review and the notification requirements related to setting an objection aside.

Section 219.55—Response to Comments

The Department made minor changes for clarity and consistency. Comments on this section were answered in response to comments regarding § 219.53. As discussed in response to comments for § 219.50, the Department changed the term "organization" to "entity" in this section.

Section 219.56—Objection Time Periods and Process

This section details the time in which objections can be filed, how time periods are calculated, the evidence required to demonstrate a timely filing, the role and responsibilities of the reviewing officer, publication of notifications, and the reviewing officer's response requirements.

Section 219.56—Response to Comments

Two changes were made to this section. The Department lengthened the amount of time from 30 days to 60 days to file an objection if an EIS has been prepared and the Department lengthened the time from 30 days to 45 days if an EIS is not prepared. This change in procedural requirements was made to give more time to the public in response to public comment on the proposed rule. Changes to other sections in this subpart were made to be consistent with this change.

In addition, in paragraph (e) of this section, the Department added the requirement that for an objection or part of an objection related to the selection of species of conservation concern, the reviewing officer may not be the regional forester who identified those species, but must be a different line officer. The Chief may be the reviewing officer or may delegate the reviewing officer authority and responsibility to a line officer at the same administrative level as the regional forester. In addition, the Department added a requirement for the reviewing officer for the plan to convey any such objections to the appropriate line officer. These changes in requirements are needed because of the change in § 219.9(c) subpart A requiring that the regional forester, rather than the responsible official for the plan, identify the species of conservation concern.

Comment: Thirty-day comment period. Some respondents felt the 30-day time limit for filing an objection is too short.

Response: Section 219.56 was changed to modify the objection filing period to 60 days for a new plan, plan revision, or a plan amendment for which an EIS is prepared, and 45 days for amendments for which an EIS is not prepared in response to this comment.

Comment: Interested person's timeframe. Some respondents felt the proposed interested person's timeframe of 10 days is insufficient and would limit interested parties ability to fully participate in the objection process.

Response: The final rule retains the 10-day requirement. Persons who have been participating throughout the process should already be familiar with those issues, and should be able to file a request to participate within this timeframe. Granting a longer timeframe for filing a request to participate in an objection would affect the reviewing officer's ability to schedule meetings in a timely manner to discuss issues raised in the objection with the objector and interested parties, thereby delaying resolution of an objection and impacting the reviewing officer's ability to respond to all objections within the timeframe provided by § 219.57.

Section 219.57—Resolution of Objections

This section explains the Department's requirements for the process and responsibilities related to the resolution of objectives. The intent of this process is to have a meaningful dialogue with objectors and interested parties in order to resolve as many concerns as possible prior to approval of a plan, plan amendment, or plan revision.

Section 219.57—Response to Comments

The Department retains the proposed rule wording in the final rule.

Comment: Some respondents felt that not requiring a point by point written response to objections is contrary to the objective of resolving issues before decisions are made.

Response: It is the intent of the Agency that all issues raised through objection will be responded to, although the responses may not necessarily address each issue individually. Consolidating objection issues and answering with a single response may be appropriate for objection issues of a similar or related nature. Consolidated responses allow similar issues to be examined and responded to consistently and efficiently.

Section 219.58—Timing of a Plan, Plan Amendment, or Plan Revision Decision

This section describes when a responsible official could approve a plan, plan amendment, or plan revision.

Section 219.58—Response to Comments

Other than a minor correction to paragraph (c) to change "30-day time period" to "allotted filing period" to be consistent with the option of either the 60-day or 45-day time period for filing of an objection under § 219.56, the Department retains the proposed rule wording in the final rule.

Comment: A respondent felt that the 5-day business period following the objection period should be increased to 10 days.

Response: The Department determined that 5 business days are an adequate time period for an objection that was timely filed to be received by the reviewing officer, under any delivery option.

Section 219.59—Use of Other Administrative Review Processes

This section would allow for the use of other administrative review processes in lieu of the objection process in certain circumstances when the Forest Service is participating in a multi-Federal agency planning process or when a plan amendment is approved in a decision document approving a project or activity.

Section 219.59—Response to Comments

The proposed rule authorized the reviewing officer to choose whether to adopt the administrative review procedure of another Federal agency. The final rule instead gives the responsible official this authority, to better reflect the Department's intent, and consistent with the requirement for the responsible official to notify the public early in the planning process that a review process other than the objection process of this subpart would be used.

Comment: Public burden. Some respondents expressed concern about the unreasonable and unfair burden placed on the public for site-specific

plan amendments by having to respond to two processes, the NEPA appeal of project level activity and the planning NFMA objection process for planning decision.

Response: The Department recognizes there may be limited circumstances when a plan amendment decision applicable to a project and all future projects in the plan area is made at the same time as that project or activity decision. In such circumstances, the objection process applies to the plan amendment decision, and the review process of 36 CFR part 215 or 218 would apply to the project or activity decision (§ 219.59(b)). In these circumstances, while the NEPA analysis for amendment and project may be combined, the responsible official is making two separate decisions: A project or activity decision and a plan amendment that applies to all future projects or activities. Each action, project, and amendment, should be reviewed under its appropriate review procedures. A person or entity may seek review of either or both, depending upon the person's or entity's concerns.

The Department requires the public be notified during the NEPA process that the objection process will be used (unless the option provided by paragraph (a) of this section to use another process is available and chosen). The Agency's NEPA requirements serve to assure ample opportunities for notification of the public of the use of the objection process as well as the beginning of the objection process.

Section 219.60—Secretary's Authority

This section clarifies that nothing in this subpart restricts the statutory authority of the Secretary of Agriculture regarding the protection, management, or administration of NFS lands.

Section 219.60—Response to Comments

The section of the final rule is unchanged from the proposed rule. No comments were submitted by the public on this section.

Section 219.61—Information Collection Requirements

This section explains that this subpart's requirements regarding information that an objector must provide are "information collection requirements" as defined by 5 CFR part 1320 and that these requirements have been approved by the Office of Management and Budget.

Section 219.61—Response to Comments

This section of the final rule is unchanged from the proposed rule. No comments were submitted by the public on this section.

Section 219.62—Definitions

This section defines some of the terms and phrases used in subpart B of the proposed rule.

Section 219.62—Response to Comments

The Department has made a few minor changes throughout this section.

The final rule dropped the definition of "formal comments" and added a definition of "substantive formal comments." This definition includes the definition of the proposed rule's term, "formal comments," and added wording to clarify when comments are considered substantive. The final rule also modified the definition of "objection period" by replacing the proposed rule's "30 calendar day period" with "allotted filing period." As discussed in response to comments for § 219.50, the Department changed the term "organization" to "entity" in this section.

Comment: Substantive formal comment: Some respondents requested the rule define "substantive formal comment."

Response: In response to this comment, and because the term "substantive formal comment" is now used consistently throughout this subpart, the final rule defines "substantive formal comments." The definition is consistent with the definition used in Agency appeal regulations 36 CFR 215 for "substantive comment."

Regulatory Certifications

Regulatory Planning and Review

The Agency reviewed this final rule under U.S. Department of Agriculture (Department) procedures and Executive Order (E.O.) 13563 issued January 18, 2011, and E.O. 12866 issued September 30, 1993. Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

The final rule will not have an annual effect of $100 million or more on the economy or adversely affect productivity, competition, jobs, the environment, public health or safety, or State or local governments. This final rule will not interfere with an action taken or planned by another Agency. Finally, this final rule will not alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients of such programs. However, because of the extensive interest in National Forest System (NFS) planning and decisionmaking, this rule has been designated a significant regulatory action, although not economically significant, under section 3(f) of Executive Order 12866. Accordingly, the rule has been reviewed by the Office of Management and Budget (OMB).

A cost benefit analysis, including the regulatory impact analysis requirements associated with Executive Orders 13563 and 12866 and OMB circulars, has been developed. The analysis evaluates the regulatory impact and compares the costs and benefits of implementing the final rule to the baseline, which assumes planning pursuant to the 1982 rule procedures, as allowed by the transition provisions of the 2000 planning rule (36 CFR 219.35(b), 74 FR 67073 (December 18, 2009)). This analysis is posted on the World Wide Web at: *http://www.fs.usda/planningrule,* along with other documents associated with this final rule.

The scope of this analysis is limited to programmatic or agency procedural activities related to plan development, plan revision, and plan amendment of land management plans for management units (for example, national forests, grasslands, prairies) within the NFS. No costs or benefits associated with on-the-ground projects or activities are characterized or projected. Potential procedural effects evaluated in the analysis include potential changes in agency costs for planning and changes in overall planning efficiency. In this analysis, costs refer to planning costs to the Agency. Benefits refer to the benefits of the alternatives in terms of planning efficiency and capacity for land management plans to maintain long-term health and productivity of the land for the benefits of human communities and natural resources. This analysis identifies and compares the costs and benefits associated with developing, maintaining, revising, and amending NFS land management plans under six alternatives: Alternative A the proposed NFS planning rule (proposed rule); Modified Alternative A modification of the proposed rule (final rule); Alternative B the implementation of 1982 rule procedures under the 2000 rule (No Action); Alternative C the minimum to meet the National Forest

Management Act (NFMA) and purpose and need; Alternative D a modified version of the proposed rule with an alternative approach to species diversity and an emphasis on watershed health; Alternative E a modified version of the proposed rule with emphasis on monitoring performance and collaboration. Alternative B is the no action alternative and therefore the baseline for this analysis.

The final rule includes the same concepts and underlying principles as the proposed rule. However, there are a number of changes to the rule text and to the document structure. The changes are based on public comment received during the comment period on the DEIS and the proposed rule (Alternative A).

The cost and benefits of the final rule are evaluated within the context of a planning framework consisting of the three-part learning and planning cycle: Assessment, development/revision/amendment, and monitoring. The cost-benefit analysis focuses on key activities related to this three-part planning cycle for which agency costs can be estimated with the 1982 rule procedures as a baseline. Differences in costs across alternatives are estimated when possible, but benefits are discussed qualitatively as potential changes in procedural or programmatic efficiency. The key activities for which costs were analyzed include: (1) Assessments (for example, identification and evaluation of existing information relevant to the plan area to establish a basis of information and the landscape-scale context for management prior to changing the plan); (2) public participation (for example, collaboration and public participation activities not including those required by the NFMA and NEPA); (3) development and analysis of plan revision and amendment decisions (developing of alternatives to address the need to change the plan, analyzing and comparing the effects of alternatives, notification and comment solicitation requirements under NEPA, and finalizing and documenting plan revision and plan amendment decisions); (4) science support (activities for assuring identification and use of the best available scientific information); (5) resolution of issues regarding plan revisions or plan amendments through the administrative processes of appeals or objections; (6) monitoring (limited to those monitoring activities that support planning); and (7) minimum plan maintenance (minimum expenses to maintain a plan during non-revision years, excluding assessment, collaboration, and analysis/decision costs associated specifically with plan amendments).

Primary sources of data used to estimate agency costs include recent cost-benefit analyses, business evaluations, and budget justifications for planning rules issued between 2000 and 2008 and recent historical data (1996–2009) regarding regional and unit-level budget allocations and paid expenditures for planning and monitoring activities related to planning. The 1982 rule procedures are considered the baseline for this analysis. Until a new planning rule is in place, the 1982 rule procedures are being used, as permitted by the transition provision of the 2000 rule, to develop, revise, and amend all plans. Agency costs are initially estimated for the 1982 rule procedures and then used as a baseline from which adjustments are made, based on explicit differences in planning procedures, to estimate the incremental impact of the final rule. However, it should be noted that cost projections of the final rule are speculative because there are challenges anticipating the process costs of revising and amending plans at this programmatic level of analysis. Annual costs are estimated separately for years during which units (with regional support) are engaged in plan revision and the years units are engaged in plan maintenance/amendment. The estimated costs are then aggregated to estimate total planning costs. Based on past studies and analyses of plan revisions under the 1982 rule procedures, the agency determines that plan revisions under the 1982 rule procedures will take approximately 5 years. These studies and analyses indicate that plan revisions for some units may take 7 years or longer. For estimation of average agency costs for planning over a 15-year planning cycle, it is assumed that management units will be engaged in plan revision for 3 to 4 years under the final rule and 5 years under the 1982 rule procedures, assuming annual plan maintenance or more frequent but shorter amendments than the 1982 rule procedures will be occurring for the remaining years between revision cycles.

Monitoring is assumed to occur every year, but monitoring differs slightly for plan revision years compared to maintenance years. Shorter revision periods reflect the expectation that the process for revising plans will be more efficient under the final rule because of procedural changes described below (see "Efficiency and Cost Effectiveness Impacts"). It is also assumed that approximately 120 management units will initiate plan revision over the next 15 years (2012 through 2026). Total costs are assumed to cover activities directly related to planning (and monitoring for planning purposes) at the unit and regional office levels, as well as indirect or overhead (cost pools) activity for supporting planning activities, but do not include project-level costs. Costs associated with planning at the national office and research stations are assumed to remain relatively constant across alternatives; these costs are unknown but not expected to be substantial compared to other costs evaluated. Total costs (2009 dollars ($)) are estimated for a 15-year planning cycle and then annualized assuming a 3 percent and 7 percent discount rate. Annualized costs accrued over the 15-year period reflect the annual flow of costs that have been adjusted to acknowledge society's time value of money.

Due to the programmatic nature of the final action, the benefits derived from land management plans developed, revised, or amended under the different alternatives are not quantified. Instead, the benefits of the alternatives are assessed qualitatively for procedural or programmatic efficiency. Efficiency is a function of (1) the time and resources used (costs) to complete and maintain plans, and (2) the degree to which those plans are capable of providing direction for resource monitoring, management, and use/access that sustains multiple uses (including ecosystem services) in perpetuity and maintains long-term health and productivity of the land for the benefit of human communities and natural resources, giving due consideration to relative values of resources (that is, meets the objectives of the NFMA and other key guiding legislation).

Agency Cost Impacts

Results of the cost analysis indicate agency costs increase for some key activities and decrease for others under the final rule and alternatives. However, total annual planning costs are not projected to be substantially different between the final rule and the 1982 rule procedures. Estimates of potential differences in planning costs are complicated by the unknown effects of any future Forest Service directives that might be developed to support the final rule.

As shown in Table 1, the annual average undiscounted cost to the Agency for all planning-related activities under the final rule ($97.7 million per year) are estimated to be $4.8 million per year lower compared to the proposed rule ($102.5 million per year), and $6.3 million per year lower

compared to the 1982 rule procedures ($104 million per year).

TABLE 1—SUMMARY OF ESTIMATED ANNUAL AVERAGE COSTS OF ALTERNATIVE RULES

[In million $ per year *]

	Estimated annual average costs			Net savings/(cost) comparisons	
	Final rule	Proposed rule	1982 rule procedures	Final rule to proposed rule	Final rule to 1982 rule procedures
Annual average undiscounted costs	97.7	102.5	104	4.8	6.3
Annualized discounted costs at 3%	97	102	103	5	6
Annualized discounted costs at 7%	96.3	101.2	102.2	4.9	5.9

* Estimates are in 2009 dollars.

Assuming a 3 percent discount rate, the projected annualized cost for the final rule is estimated to be $97 million, while the projected annualized cost for the proposed rule is $102 million, implying an annualized cost difference between the final rule and the proposed rule of $5 million, while the projected annualized cost for the 1982 rule procedures is $103 million, implying a projected annualized cost difference of $6 million. Assuming a 7 percent discount rate for the same timeframe, the projected annual cost estimate for the final rule is $96.3 million compared to $102.2 million under the 1982 rule procedures.

Given the relatively small change in estimated costs, combined with the uncertainty associated with costing assumptions, estimated annual planning costs for the final rule are not projected to be substantially different from the proposed rule and the 1982 procedures. However, over a 15-year period more plan revisions and amendments are expected to be completed under the final rule as compared to the 1982 rule procedures for about the same amount of cost estimated. It is anticipated that units will have greater capacity to maintain the currency, reliability, and legitimacy of plans to meet the objectives of the MUSYA, the NFMA, and the planning rule (§ 219.1(b) and (c)): Thereby improving the quality of plans and therefore the efficiency of the planning process.

Based on the above quantitative comparison, annual average planning costs to the Agency are projected to be similar for the final rule, the proposed rule, and the 1982 procedures. A learning curve is expected under the final rule. During the initial efforts by management units to develop, revise, or amend plans under the new rule, costs are expected to reflect additional time and resources needed to adjust to a new planning framework, including training. It is likely the cost of training will decrease gradually over time. Therefore, during the first 15-year period, planning costs will be slightly elevated and not significantly different from the no-action alternative as units adjust to the new planning process and build collaborative capacity. In subsequent 15-year periods, planning costs are likely to decrease as the new process becomes more established. Planning costs in subsequent planning cycles are expected to decrease, recognizing there will still be efficiency gains during the initial planning efforts.

The cost and benefit analysis assumed eight management units will start plan revision annually. Therefore, approximately 120 management units will at least initiate plan revision over the next 15 years (2012 through 2026). This analysis also assumed each management unit would take 3 to 4 years to revise a plan under the final rule and 5 years under the 1982 rule procedures. Given these assumptions, over a 15 year period, there would be approximately 104 plan revisions completed under the final rule in contrast to an estimated 88 plans revised under the 1982 rule procedures, a net increase of 16 plans revised under the final rule.

Efficiency and Cost-Effectiveness Impacts

The numerous public meetings, forums, and roundtable discussions revealed growing concern about a variety of risks, stressors, and challenges to planning (for example, climate change; insects and disease; recreation, timber, and other shifts in demands; population growth, and other demographic shifts; water supply protection and other ecosystem support services). Addressing these types of risks and contingencies requires a larger landscape perspective, information from a broad spectrum of sources, and a framework that can facilitate adaptation to new information. The new procedural requirements under the rule are designed to recognize these needs. The requirements are intended to increase agency capacity to adapt management plans in response to new and evolving information about risks, stressors, contingencies, and management constraints as described in the section above. It is anticipated under the final rule that the Agency will be able to establish plans that are efficient and legitimate frameworks for managing resources that meet public demand in a sustainable fashion and satisfy the goals of the MUSYA and the NFMA, and that management units will be better able to keep plans updated and current with evolving science and public concerns without substantial changes in planning costs over a 15-year period.

Under the final rule, costs are projected to be redirected toward collaboration, assessment, and monitoring activities and away from development and analysis of alternatives compared to the 1982 rule procedures. Costs are also expected to be redirected more toward maintenance or plan amendments under the final rule, due in part to expectations that less time will be needed to complete plan revisions. These effects are projected to occur, in part, because of broader support and resolution of issues at earlier stages of plan revision, achieved through collaboration as well as other procedural changes.

The reallocation of efforts and costs across different phases of planning, and across key planning activities under the final rule is expected to improve overall planning efficiency. Shifts in emphasis and resources under the final rule are projected to improve the currency, reliability, and legitimacy of plans to serve as a guide for: (1) Reducing uncertainty by identifying and gathering existing and new information about conditions, trends, risks, stressors, contingencies, vulnerabilities, values/needs, contributions, and management

constraints; (2) integrating and assessing ecological, social, and economic information to determine if outputs and outcomes related to unit contributions to ecological, social, and economic conditions indicate a need to change the plan; and (3) responding to the need for change in management activities, projects, or revisions and amendments to plan components. Potential increases and/or reallocation of costs associated with assessment, analysis, and monitoring requirements for elements such as diversity and sustainability are expected to provide clearer direction for subsequent project planning. Project-level costs are not included in the analysis of land management planning costs.

Agency planning costs under the final rule are estimated to be slightly lower compared to the proposed rule and the 1982 rule procedures, however, due to relatively small differences in estimated costs, combined with uncertainty associated with costing assumptions, the estimated agency costs are not projected to be substantially different between the proposed rule, the final rule, and the 1982 rule procedures. Changes in rule requirements under the final rule will enhance planning efficiency, and more plan revisions and amendments, as well as more effective plans, are expected as a result of the final rule. Details about the potential effects of specific procedural changes on agency costs and planning efficiency are described below, by activity category.

Assessment: Slight increases in assessment costs (compared to the cost of doing an analysis of the management situation under the 1982 rule procedures) are anticipated under the final rule. This is due to an increased emphasis on characterizing factors such as assessing conditions, trends, and sustainability within a broader ecological and geographic context (landscapes), ecosystem and species diversity, climate change, as well as other system drivers, risks, threats, and vulnerabilities. Gains in cost effectiveness are achieved through other elements such as direction to rely on existing information and the removal of required prescriptive benchmark analysis. Changes in the assessment requirements and guidance are expected to increase planning efficiency and effectiveness by improving capacity to assimilate and integrate existing and new information to inform changes to the plan.

Assessments would identify and evaluate information at landscape levels and at a geographic scale based on ecological, economic, or social factors relevant to the plan area, rather than reliance on administrative boundaries. This broader approach would enhance capacity to incorporate information about conditions outside of NFS boundaries relevant to management of the plan area.

Risks and vulnerabilities to ecosystem elements and functions would be considered in assessments thereby encouraging consideration of the effects of long-term environmental or social/economic variability, events, and trends on future outputs, ecosystem services, and outcomes.

For the final rule, the level of effort, or reallocation of effort (and cost) to the assessment phase is reduced as compared with the proposed rule, due to a narrower focus on rapid review and evaluation of existing information (for example, assessments completed by States and other entities, and so forth), as well as the inclusion of a specific set of topics to focus on for the assessment, as opposed to the broader direction in the proposed rule. Requirements to discuss roles and contributions, "need-to-change," as well as monitoring questions have been removed under the final rule. The 'benefits people obtain from NFS planning areas' (ecosystem services) have been highlighted under the final rule. Direction to gather and evaluate information about potential species of conservation concern is more explicit (and transparent) under the final rule. The changes in assessment requirements under the final rule are expected to improve the cost effectiveness of assessments. These changes are also designed to increase the likelihood of improving capacity to respond to changes in conditions and trends, as originally intended under the proposed rule.

Public Participation: Requirements for public participation (including collaboration) have not changed between the proposed and final rules. Costs associated with public participation are projected to increase under the final rule as compared to the 1982 rule procedures due primarily to requirements that opportunities for participation, including collaboration where feasible and appropriate, be provided throughout the planning process. Gains in cost effectiveness may occur, in part, by providing responsible officials with discretion to design collaborative strategies that meet unit-specific needs and constraints and recognize local collaborative capacity. Costs for some units may be higher where potential barriers to collaboration are present (for example, pre-existing relationships may exacerbate perceived inequities; absence of pre-existing social networks or capacity; or false commitments). Recognizing these challenges, the final rule provides responsible officials with discretion to determine the scope, methods, and timing of opportunities for public participation that are appropriate to the circumstances specific to the action being taken, and the final rule states that opportunities for collaboration be offered when feasible and appropriate. However, changes in guidance and requirements for public participation under the final rule are expected to increase planning efficiency, especially as related to the relevance and effectiveness of plans, because of the following:

(1) Improved analysis and decisionmaking efficiency during latter stages of planning due to increases in public input during early phases;

(2) Improved capacity to reduce uncertainty by gathering, verifying, and integrating information from a variety of sources, including Tribal or other forms of knowledge, within and beyond unit boundaries;

(3) Potential to offset or reduce agency monitoring costs as a result of collaboration during monitoring plan development and monitoring itself;

(4) Improved capacity to consider values and concerns for all economic sectors and social segments, including amenity-driven demographic shifts associated with local or rural communities in wildland dependent counties;

(5) Reduced need for large numbers of plan alternatives as well as time needed to complete plan revisions as a consequence of broader support and resolution of issues achieved through public participation and collaboration during early phases of final plan development;

(6) Improved perceptions regarding the legitimacy of plans and the planning process and improved ability to address issues and concerns prior to the need for litigation by increasing transparency, developing awareness of the values and expected behavior of others, and seeking greater understanding about values, needs, tradeoffs, and outcomes during earlier stages of planning; and,

(7) Building unit (and regional) capacity to overcome existing barriers to collaboration (for example, absence of social networks or capacity; perceptions about pre-existing power relationships) through training and facilitation.

Analysis and decisions (plan development, plan revision or amendment): Costs associated with analysis and decisions are estimated to decrease overall under the final rule due primarily to the effect of fewer prescriptive requirements (relative to

1982 rule procedures) regarding probable (management) actions, timber program elements, number and types of alternatives, evaluation of alternatives, and minimum management requirements. The forces affecting the cost include (1) increased emphasis on consideration of resource attributes and conditions such as sustainability, watershed health, and water supply, and (2) adaptation to new approaches for addressing species viability and diversity in the short-term (with long-term potential for gains in cost-effectiveness).

The following elements associated with the final rule are expected to increase planning efficiency by facilitating plan revisions and amendments, expanding capacity for adaptive management, and improving guidance for responding to diverse determinations of a need to change the plan:

The adoption of a coarse-filter/fine-filter approach for addressing species viability and diversity within plan components, combined with the recognition of land management and resource limits which constrain the Agency, is expected to make management units better able to develop plans that provide feasible or realistic direction for responding to species and ecosystem sustainability and recovery needs and meeting requirements for plant and animal diversity.

A greater emphasis on sustainability and ecosystem integrity in plan components is expected to facilitate restoration responses triggered by new information regarding environmental, social, and economic risks and stressors, including climate change and changes in demand for goods and services. Expected results include reduced effects from anthropogenic stressors, thereby helping to restore healthy ecosystems and compatible uses (especially in areas sensitive to disturbance and changing conditions) as well as increased protection of riparian area function.

Refocusing the use of the term "restoration" to focus on recovery of resiliency and ecosystem functions (instead of historical reference points) provides greater flexibility to respond to need-for-change regarding damaged ecosystems.

Greater emphasis placed on identifying each unit's role in providing ecosystem services within a broader landscape or region should facilitate the design of management responses that recognize the marginal effects or contributions of ecological, social, or economic conditions originating from outside of the traditional unit study area boundaries.

More frequent amendments expected under the final rule could potentially lead to fewer need-for-change determinations when plans are revised. Assessments and proposal steps may not be needed for some amendments.

Under the final rule, slightly more effort is re-directed to activities associated with development and analysis of plan revisions (or amendments) compared to the proposed rule. Examples of changes under the final rule that can enhance overall planning efficiency include:

- Moving "Need-to-change" determinations from assessments to the plan revision phase to clarify the separation between the assessment and NEPA phases;
- Clarifying how plan area ecosystems are integrated into landscape-level ecological, social, and economic sustainability;
- Refining and clarifying requirements for riparian zones; and
- Clarifying unit responsibilities for the diversity of plant and animal communities.

These changes are expected to contribute to planning efficiency by improving the capacity of plans to provide for sustainability and diversity.

Science support: Slight cost increases for science support may occur under the final rule due in part to more prescriptive wording to use the best available scientific information during the planning process to inform the planning process, plan components, and other plan content, including the monitoring program. On the other hand, requirements under the final rule for using the best available scientific information to inform decisions contribute to planning efficiency by maximizing coverage of scientific input from diverse sources, integrating science throughout all stages of planning, and taking advantage of scientific knowledge from external partners and agency research stations, thereby strengthening the decisionmaking process. Also the final rule has fewer documentation requirements, concentrating the burden of documentation on the most relevant and appropriate points in the planning process. Additional changes are made to clarify the responsible official's use of best available scientific information in informing the planning process.

Resolutions: The cost effect of a shift from a post-decisional appeals process (under the 1982 rule procedures) to a pre-decisional objection period under the final rule is difficult to project. Ongoing litigation under the current planning rule is costly and time consuming and may continue under the new rule. However, the new planning framework (i) places greater emphasis on public participation and collaboration early and throughout the planning process, (ii) adopts a pre-decisional objection process, and (iii) changes the regional office responsible official from regional forester to forest supervisor. These changes are expected to improve legitimacy and trust in the planning process and contribute to more efficient resolution of issues early in the process, prior to the plan development, plan revision or plan amendment approval. Making a decision on an objection before plan approval can be less disruptive than an appeal decision which can come months after plan implementation begins. The more frequent use of amendments expected under the final rule will keep plans more current and is expected to narrow the focus of changes over time. In addition, the assessment and monitoring phases of the planning framework are expected to build public support and improve the legitimacy and relevance of plans by providing and continually updating a transparent base of information to inform management decisions. There is no expectation of unanimous support for any given proposed plan development, plan revision or plan amendment under any of the alternatives, however early resolution of issues is expected to occur and contribute to overall planning efficiency under the final rule. Efficiency gains under the final rule are expected to be similar to the proposed rule for resolution of issues, recognizing that the objection period for actions involving environmental impact statements is extended to 60 days under the final rule and to 45 days when there is no environmental impact statement.

Monitoring: Relative increases in monitoring costs as compared to the 1982 rule procedures are anticipated as a consequence of a greater emphasis on broader input and participation in the design and implementation of monitoring, new approaches for characterizing diversity and resiliency, and two-level (plan and broad-scale) monitoring. However, over time, the two-level approach to monitoring is expected to increase monitoring efficiencies and decrease the cost of other planning related activities. Under the final rule, the two-level approach to monitoring is intended to inform the plan area management and make progress toward desired outcomes. By testing assumptions, tracking changing conditions, and assessing management effectiveness, monitoring information will inform adaptive management and lead to more effective and relevant

plans. Plan monitoring and broader-scale monitoring levels are related. The monitoring framework would require monitoring to be more consistent across units of the NFS. The final rule would mobilize multi-party monitoring resources by working across all Forest Service branches and engage partners and other Government agencies in its monitoring efforts to help reduce the cost of added monitoring requirements and provide for monitoring efforts that are complementary. There is also potential that collaboration would result in more cooperative monitoring programs with other agencies and the public. This could help leverage resources to accomplish additional monitoring.

Changes in guidance and requirements for monitoring under the final rule as compared to the 1982 rule procedures are expected to increase planning effectiveness by improving capacity to gather information and reduce uncertainty for a number of integrated ecological, social, and economic conditions, trends, risks, stressors, constraints, and values within and beyond unit boundaries.

Monitoring under the final rule focuses to a greater extent on ecosystems, habitat diversity, and smaller numbers of species to monitor (relative to MIS under Alternative B), with the intent that tracking of species diversity and habitat sustainability will be more cost-effective and reflective of unit-specific capabilities. Two-level monitoring is intended to create a more systematic and unified monitoring approach to detect effects of management within unit boundaries as well as track risks, stressors, and conditions beyond unit boundaries that affect, or are affected by, unit conditions and actions.

Emphasis on coordination between plan area monitoring and broader-scale monitoring helps ensure information is complementary, is gathered at scales appropriate to monitoring questions, reduces redundancy, and improves cost-effectiveness.

Efficiency gains under the final rule are expected to be similar to the proposed rule. Changes to monitoring requirements under the final rule should enhance those gains by: (1) Clarifying that monitoring information should inform need-to-change, (2) modifying requirements for engaging various partners in developing the monitoring program, and (3) clarifying the connection between the monitoring requirements and the requirements for diversity in § 219.9.

Distributional Impacts

Due to the programmatic nature of this rule, it is not feasible to assess distributional impacts (for example, changes in jobs, income, or other measures for social and economic conditions across demographics or economic sectors) in detail. Under the final rule, units would continue to use their timber sale program and other forest management activities to enhance timber and other forest resource values and benefits over time (similar to the 1982 procedures). Continued monitoring of recreation use is expected under the final rule as a result of continuation of the national visitor use monitoring system. Collaboration under the final rule would help assure consideration of a broad spectrum of recreational values and an integrated mix of sustainable recreation opportunities relevant to each NFS unit.

Grazing allotments are parcels or designated areas of rangeland leased or permitted to a livestock grazer. Their use is planned and monitored to maintain sustainable production and rangeland health. Plans would include plan components to maintain or restore ecological integrity of lands, including rangelands, and grazing allotment management plans would continue to be modified to be consistent with plans developed under the final rule, as they are for plans developed using the 1982 rule procedures.

In general, the final rule is designed to facilitate engagement and involvement throughout all phases of planning, thereby improving capacity to consider and incorporate values and concerns for all economic sectors and social segments affected by any given plan, plan revision, or plan amendment. The final rule is also intended to facilitate assimilation of existing or new information about local or rural, as well as national, concerns and values throughout the planning process. Increased opportunities for considering and addressing social and economic concerns through participation and collaboration under the final rule therefore apply evenly across all sectors and populations.

The final rule requires plans to have plan components that "guide the plan area's contributions to social and economic sustainability." The final rule also requires that plans include a statement of the roles and contributions of the unit within a broader landscape and that assessments, plan component development, and monitoring consider social and economic conditions, including a broad spectrum of goods and services. These requirements provide a flexible means for acknowledging the varying and relative importance of plan area contributions to social and economic sustainability as it relates to a range of economic sectors and populations across units and regions.

The final rule is more prescriptive about considering and facilitating restoration of damaged resources as well as improving resource capacity to withstand environmental risks and stressors (that is, resiliency), thereby providing greater capacity for sustaining local or rural economic opportunities to benefit from forest resources and ecosystem services, including recreation/tourism and water supply/watershed health as well as restoration based activities.

Proper Consideration of Small Entities

The final rule has also been considered in light of Executive Order 13272 regarding proper consideration of small entities and the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), which amended the Regulatory Flexibility Act (5 U.S.C. 601 et. seq.). The Department has determined this action will not have a significant economic impact on a substantial number of small entities as defined by the E.O. 13272 and SBREFA, because the final rule imposes no requirements or costs on small entities, nor does it impose requirements or costs on specific types of industries or communities. In addition, the final rule provides more opportunities for small entities to engage with the Department and become more involved in all phases of planning, thereby expanding capacity to identify and consider the needs and preferences of small entities. Timelier planning and management decisions under the final rule should increase opportunities for small entities to benefit from implementation of updated land management plans. Additional emphasis on ecosystem resiliency to facilitate restoration activities and on sustainable recreation opportunities should help sustain economic opportunities linked to local or rural communities, many of which are host to small entities. Therefore, a regulatory flexibility analysis is not required for this final rule.

Energy Effects

This final rule has been reviewed under Executive Order (E.O.) 13211 issued May 18, 2001), "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use." It has been determined that this final rule does not constitute a significant energy action as

defined in E.O. 13211. While the Agency does not manage subsurface minerals, mineral exploration and development does occur on NFS lands. Similarly, the Agency recognizes the growing demand for geothermal, wind, and solar energy development on NFS lands. Agency management of the renewable resources mandated by MUSYA recognizes ongoing and potential exploration and development while protecting and conserving these renewable resources. The final rule set out administrative procedural requirements whereby NFS land management plans are developed, revised, and amended. The final rule recognizes in § 219.10 that development of renewable and non-renewable energy resources are among the potential uses in a plan area. However, the final rule does not dictate the activities that may occur or not occur on administrative units of the NFS. Accordingly, the final rule does not have energy requirements or energy conservation potential.

Plans developed under the final rule will provide the guidance for making future project or activity resource management decisions. The final rule recognizes in § 219.10 that the placement and maintenance of infrastructure such as transmission lines are among the potential uses in a plan area. Land management plans may identify major rights-of-way corridors for utility transmission lines, pipelines, and water canals. The effects of the construction of utility transmission lines, pipelines, and canals are, of necessity, considered on a case-by-case basis as specific construction proposals. While these plans may consider the need for such facilities and may include standards and guidelines that may constrain energy exploration and development, they would not authorize construction of them; therefore, the final rule does not constitute a significant energy action within the meaning of E.O. 13211. Consistent with E.O. 13211, direction to incorporate consideration of energy supply, distribution, and use in the planning process will be included in the Agency's administrative directives for carrying out the final rule.

Environmental Impacts

This final rule establishes the administrative procedures to guide development, amendment, and revision of NFS land management plans. The Agency has prepared a final programmatic environmental impact statement to analyze possible environmental effects of the final rule, present several alternatives to the final rule, and disclose the potential environmental impacts of those alternatives. The final programmatic environmental impact statement is available on the Web at *http://www.fs.usda.gov/planningrule.*

The final rule requires plan development, amendment, or revision to follow NEPA procedures. The rule requires an EIS for plan development and plan revisions. The rule also requires that plan amendments comply with Forest Service NEPA procedures. The appropriate NEPA documentation for an amendment may be an EIS, an EA, or a CE, depending upon the scope and scale of the amendment and its likely effects.

Controlling Paperwork Burdens on the Public

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or reporting requirements for the objection process were previously approved by the Office of Management and Budget (OMB) and assigned control number 0596–0172 for the objection process included in the Title 36, Code of Federal Regulations, Part 218—Predecisional Administrative Review Processes, Subpart. A—Predecisional Administrative Review Process for Hazardous Fuel Reduction Projects Authorized by the Healthy Forests Restoration Act of 2003.

The information required by subpart B of this rule is needed for an objector to explain the nature of the objection being made to a land management plan, plan amendment, or plan revision. This final rule retains the objection process established in the CFR 218 objection regulation and does not require additional information be provided from the public. This rule does instead give direction that is more detailed to both the public and Forest Service personnel on the timelines, requirements, and procedures of the objection process.

Federalism

The Agency has considered this final rule under the requirements of Executive Order (E.O.) 13132 issued August 4, 1999, "Federalism." The Agency has made an assessment that the final rule conforms with the Federalism principles set out in this Executive Order; would not impose any compliance costs on the States; and would not have substantial direct effects on the States, on the relationship between the national Government and the States, nor on the distribution of power and responsibilities among the various levels of government. Therefore, the Agency concludes that this final rule does not have Federalism implications. Moreover, § 219.4(a) of this final rule shows sensitivity to Federalism concerns by requiring the responsible official to encourage participation of State and local governments and Indian Tribes in the planning process. In addition, § 219.4(b) requires the responsible official to coordinate planning with State and local governments and Indian Tribes.

In the spirit of E.O. 13132, the Agency provided many opportunities for State and local officials, including their national representatives, to share their ideas and concerns in developing the final regulation. Respondents to the February 14, 2011, proposed rule included the following: 113 county government agencies or elected officials, 62 State government agencies, elected officials, or associations, and 18 American Indian government agency, or elected officials. Many Tribal, State, and local government agencies submitted comments requesting that collaboration and coordination be mandatory before beginning plan revisions. Some respondents suggested that forest plans be made locally and adapted to "local management," "local control," and "local collaboration." Intergovernmental planning coordination was supported by many respondents as well. Many respondents cited Federal, Tribal, State, local, and other types of planning they felt the Agency should be careful to consider and integrate into forest plans. Respondents often agreed that the Agency's planning efforts are strengthened when achieved in careful collaboration with local governments and other local interests. Comments of this nature were sometimes followed up with considerations for "cooperating agency" provisions to solidify the process and outcomes to be achieved through the participation of cooperating agencies. The Department carefully considered these comments when making changes to the rule.

Consultation With Indian Tribal Governments

On September 23, 2010, the Deputy Chief for the National Forest System sent letters inviting more than 600 federally recognized Tribes and Alaska Native Corporations to begin consultation on the proposed planning rule. The Forest Service continued to conduct government-to-government consultation on the planning rule while developing the final rule. The Forest Service considers Tribal consultation as an ongoing, iterative process through the issuance of the final rule.

The Agency held 16 consultation meetings across the country in November and December 2010. During these meetings, Forest Service leaders

met with Tribal and Alaska Native Corporation leaders, or their designees, to discuss a Tribal consultation paper, which described how the draft proposed rule discussed concerns Tribes had raised during the collaborative sessions held earlier in the year. Forest Service leaders also met one-on-one with Tribal leaders that requested consultation in this manner. In July 2011, the Deputy Chief for the National Forest System sent letters encouraging federally recognized Tribes and Alaska Native Corporations to continue consult prior to release of the final rule. Tribes have continued to consult one-on-one with Forest Service leaders, as well as through regional or sub-regional consultation meetings. All of the consultation meetings that have occurred throughout development of the proposed and final rule have strengthened the government-to-government relationship with the Tribes as well as improved the final rule. Consultation is an ongoing process and can occur at any time, including following publication of the final rule.

The Agency incorporated the input received through consultation before December 13, 2010, into the proposed rule. Those concerns heard during Tribal consultation after December 13 and which were given to the Agency by October 21, 2011, were considered for incorporation in the final rule.

The Agency also held two national Tribal roundtable conference calls to provide additional opportunities for Tribes and Tribal associations to comment prior to the development of the proposed planning rule. More than 45 Tribes and Tribal associations participated in the First National Tribal Roundtable on May 3, 2010, and more than 35 Tribes and Tribal associations participated in the Second National Tribal Roundtable on August 5, 2010. Transcripts and summaries of these meetings are available on the planning rule Web site. Additionally, six Tribal roundtables were held in California, Arizona, and New Mexico.

On March 11, 2011, after publication of the proposed rule, the Forest Service held a Tribal teleconference to provide information on the proposed rule and answer questions. Sixteen Tribes participated in the discussion and had the opportunity to have their questions answered by the Ecosystem Management Coordination Director and the Associate Chief of the Forest Service. A number of Tribes submitted comments on the proposed rule during the public comment period and the content of these letters has been carefully considered in developing the final rule.

The Agency heard from Tribal leaders that the rule should clearly state how the special rights and interests of Tribes would be provided for in the planning process and show how Tribes will be engaged early throughout the planning process. They emphasized the obligation the Forest Service has to Tribes to fulfill treaty obligations and trust responsibilities, protect and honor reserved rights, and fully recognize the unique government-to-government relationship that exists between the Federal Government and Tribes. Tribal leaders also stated that the role of science in the planning process must account for traditional Tribal knowledge. In response to these concerns, the final rule recognizes and does not modify the unique government-to-government relationship between the United States and Indian Tribes. The final rule recognizes and does not modify prior existing Tribal rights, including those involving hunting, fishing, gathering, and protecting cultural and spiritual sites. The rule requires the agency to work with federally recognized Indian Tribes, government-to-government, as providing in treaties and laws and consistent with Executive orders when developing, amending, or revising plans. The final rule encourages Tribal participation in NFS planning. Further, the rule recognizes the responsibility of Forest Service officials to consult early with Tribal governments and to work cooperatively with them where planning issues affect Tribal interests. Nothing in the final rule should be construed as eliminating public input or Tribal consultation requirements for future projects conducted in accordance with the final rule. The responsible official shall request information from Tribes about native knowledge, including information about land ethics, cultural issues, and sacred and culturally significant sites, during the planning process.

At § 219.4(b)(2), for plan development or revision, the responsible official shall review the planning and land use policies of federally recognized Indian Tribes, Alaska Native Corporations, other Federal agencies, and State and local governments. The results of the review would be displayed in the environmental impact statement for the plan. The final rule at § 219.4(a)(1)(v) requires, where appropriate, the responsible official to encourage federally recognized Tribes to seek cooperating agency status. This provides an additional opportunity for Tribes to be engaged in the planning process and provides further avenues for Tribes to provide input during the planning process. Additionally, the responsible official may participate in planning efforts of federally recognized Indian Tribes and Alaska Native Corporations, where practicable and appropriate. For federally recognized Tribes, cooperating agency status does not replace or superseded the trust responsibilities and requirements for consultation also recognized and included in the final rule.

Tribal leaders stated that they want to see non-federally recognized Tribes and groups included in the consultation or planning process, as well as the involvement of youth. Non-federally recognized groups and Tribes would be able to participate in the planning process under the public requirements in § 219.4. Section 219.4(a)(1)(ii) requires the responsible officials to encourage participation by youth, as well as low-income and minority populations.

Tribes place great emphasis on protection of water resources and want to see the planning rule include stipulations for water protection. Water resources are discussed throughout this final rule, including specifically in § 219.7 (New plan development or plan revision), § 219.8 (Sustainability), § 219.9 (Diversity of Plant and Animal Communities), and § 219.10 (Multiple Use). Tribes support a management approach that moves away from monoculture management and promotes sustainable and diverse populations of plants and animals. Section 219.9 of the final rule requires land management plans to contain components, including standards or guidelines, to maintain or restore the ecological integrity of terrestrial and aquatic ecosystems and watersheds in the plan area.

The definition of native knowledge in § 219.19 has been retained based on the feedback that we received during consultation. The definition acknowledges that native knowledge is a way of knowing or understanding the world derived from multiple generations of indigenous peoples' interactions, observations, and experiences with their ecological systems, and that it is also place-based and culture-based knowledge in which people learn to live in and adapt to their own environment through interactions, observations, and experiences with their ecological system.

Many Tribes had a variety of concerns regarding social, economic, and ecological sustainability, and suggested that the Agency specifically discuss cultural sustainability within the final rule and protect cultural resources. The definition in the final rule of

"sustainability" notes that "social sustainability refers to the capability of society to support the network of relationships, traditions, culture, and activities that connect people to the land and to one another, and support vibrant communities." In addition, § 219.1(c) recognizes that NFS lands provide people and communities with a wide array of benefits, including "cultural benefits." Section 219.4 requires opportunities for public and Tribal participation and coordination throughout the planning process. Section 219.4(a)(3) requires that the responsible official request "information about native knowledge, land ethics, cultural issues, and sacred and culturally significant sites" during consultation and opportunities for Tribal participation. Section 219.6(b) requires assessment content to include cultural conditions and cultural and historic resources and uses. Section 219.8 in the final rule recognizes cultural aspects of sustainability by requiring "cultural and historic resources and uses "be taken into account when designing plan components to guide contributions to social and economic sustainability." Section 219.10(b)(1)(ii) of the rule requires "plan components * * * for a new plan or plan revision must provide for protection of cultural and historic resources," and "management of areas of Tribal importance." The final rule also includes recognition of and requirements for "ecosystem services," which include "cultural heritage values." These requirements, in combination with the requirement that plan content include descriptions of a unit's roles and contributions within the broader landscape under § 219.7(e), ensure the cultural aspects of sustainability will be taken into account when developing plan components that guide unit contributions to social sustainability.

During the consultation meetings, the Agency heard from Tribal leaders that confidentiality is a big concern. To explicitly discuss confidentiality, § 219.1(e) states that the responsible official shall comply with Section 8106 of the Food, Conservation, and Energy Act of 2008, Executive Order 13007 of May 24, 1996, Executive Order 13175 of November 6, 2000, laws and other requirements with respect to disclosing or withholding under the Freedom of Information Act certain information regarding reburial sites or other information that is culturally sensitive to Indian Tribe or Tribes.

The Agency has heard from Tribal leaders that they want to see sacred sites protected. The final rule requires that responsible officials request information from Tribes about sacred sites, and provides for protection of cultural and historic resources and management of areas of Tribal importance. In addition, a separate initiative by the USDA Office of Tribal Relations and the Forest Service is conducting a policy review concerning sacred sites and is consulting with Tribes during their effort. The Agency has informed Tribes of this separate initiative and how they can participate during the consultation meetings. Information that the Agency received during the planning rule consultation process regarding sacred sites has been shared with the USDA Office of Tribal Relations and the Forest Service initiative.

The Forest Service received many other comments during the Tribal consultation meetings. A number of these comments were regarding concerns that are outside of the scope of the national planning rule or that will be discussed at the local level during the development of land management plans. Tribes received responses to these comments in separate documents, which were mailed to those Tribes and Alaska Native Corporations that participated in the October and November 2010 consultation meetings following the publication of the proposed rule. Additionally, a document summarizing the comments and responses from these meetings was made available to federally recognized Tribes and Alaska Native Corporations as part of the consultation documents provided in August 2011.

Many of the public participation and other requirements in the final rule have significant potential to involve Tribes and tribal members in NFS planning and management, and to incorporate information into the process that will be relevant with regard to local effects of management on individual units, including to Tribal communities. However, pursuant to Executive Order 13175 of November 6, 2000, "Consultation and Coordination with Indian Tribal Governments," the final rule itself does not have "substantial direct effects." Effects, both positive and adverse, may occur at the local planning level, which is one of the many reasons the final rule includes requirements for tribal consultation as well as outreach to Tribes during public participation opportunities. Effects may also occur at the project or activity level, which have additional opportunities for public engagement.

The Agency has also determined that this final rule does not impose substantial direct compliance costs on Indian Tribal governments. This final rule does not mandate Tribal participation in NFS planning. Rather, the final rule imposes an obligation on Forest Service officials to provide Tribes an opportunity to consult and to reach out early to engage them throughout the planning process.

Takings of Private Property

The Agency analyzed this rule in accordance with the principles and criteria contained in Executive Order 12630 issued March 15, 1988, and the Agency determined that the rule does not pose the risk of a taking of private property.

Civil Justice Reform

The Agency reviewed the rule under Executive Order 12988, "Civil Justice Reform." The Agency has not identified any State or local laws or regulations that are in conflict with this regulation or that would impede full implementation of this rule. Nevertheless, in the event that such conflicts were to be identified, the final rule, if implemented, would preempt the State or local laws or regulations found to be in conflict. However, in that case, (1) no retroactive effect would be given to this final rule; and (2) the Department would not require the use of administrative proceedings before parties could file suit in court challenging its provisions.

Unfunded Mandates

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), the Agency has assessed the effects of this final rule on State, local, and Tribal governments and the private sector. This final rule does not compel the expenditure of $100 million or more by any State, local, or Tribal governments or anyone in the private sector. Therefore, a statement under § 202 of the Act is not required.

Environmental Justice

The Department considered impacts of the final rule to civil rights and environmental justice (pursuant to Executive Order 12898 (59 FR 7629, February 16, 1994)). If implemented, with outreach, public engagement and using NEPA procedures to document effects, this analysis concludes that no adverse civil rights or environmental justice impacts from the planning rule are anticipated to the delivery of benefits or other program outcomes on a national level for any under-represented population or to other U.S. populations or communities from the adoption of the final planning rule.

While national level impacts are not expected to be disproportionate, yet-to-

be-identified adverse impacts may be possible on a regional or local scale at the unit planning level. Differences in national level effects and regional/local level effects are the result of uneven distribution of minorities, low-income populations, and variations in regional, cultural, or traditional use, and differences in local access to resources. Impacts on the national forest level will be further examined at the unit level, including NEPA analysis for plan development, plan revision, or plan amendment and site-specific projects.

The participation efforts required by the final rule have significant potential to reach and involve diverse segments of the population that historically have not played a large role in NFS planning and management. Section 219.4(a) requires that when developing opportunities for public participation, the responsible official shall take into account the discrete and diverse roles, jurisdictions, responsibilities, and skills of interested and affected parties as well as the accessibility of the process, opportunities, and information. The responsible official is required to be proactive and use contemporary tools, such as the Internet, to engage the public, and share information in an open way with interested parties. Requirements of § 219.4 to consider accessibility and requirements to encourage participation by youth, low-income populations, and minority populations may improve environmental justice outcomes.

The final rule includes provisions for filing an objection before the final decision if the objector has filed a substantive formal comment related to a new plan, plan revision, or plan amendment. In the past, substantive formal comments were required to be in writing and submitted during the formal comment period when developing land management plans. The final rule expands the definition of a substantive formal comment to include written or oral comments submitted or recorded during an opportunity for public participation provided during the local unit's planning process (§§ 219.4 and 219.16).

If implemented, there are no anticipated adverse or disproportionate impacts to underserved, protected groups, low income, or socially disadvantaged communities. The final rule requirements, including outreach and collaboration, and the requirement for NEPA analysis are designed to avoid adverse or disproportionate effects; therefore, mitigating measures are not necessary or appropriate for adopting or implementing the planning rule. Local site-specific mitigation may occur as NFS projects and activities are planned and executed consistent with Department policy.

List of Subjects in 36 CFR Part 219

Administrative practice and procedure, Environmental impact statements, Indians, Intergovernmental relations, National forests, Reporting and recordkeeping requirements, Science and technology.

Therefore, for the reasons set forth in the preamble, the Forest Service revises part 219 of Title 36 of the Code of Federal Regulations to read as follows:

PART 219—PLANNING

Subpart A—National Forest System Land Management Planning

Sec.

219.1 Purpose and applicability.
219.2 Levels of planning and responsible officials.
219.3 Role of science in planning.
219.4 Requirements for public participation.
219.5 Planning framework.
219.6 Assessment.
219.7 New plan development or plan revision.
219.8 Sustainability.
219.9 Diversity of plant and animal communities.
219.10 Multiple use.
219.11 Timber requirements based on the NFMA.
219.12 Monitoring.
219.13 Plan amendment and administrative changes.
219.14 Decision document and planning records.
219.15 Project and activity consistency with the plan.
219.16 Public notifications.
219.17 Effective dates and transition.
219.18 Severability.
219.19 Definitions.

Subpart B—Pre-Decisional Administrative Review Process

219.50 Purpose and scope.
219.51 Plans, plan amendments, or plan revisions not subject to objection.
219.52 Giving notice of a plan, plan amendment, or plan revision subject to objection before approval.
219.53 Who may file an objection.
219.54 Filing an objection.
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219.60 Secretary's authority.
219.61 Information collection requirements.
219.62 Definitions.

Authority: 5 U.S.C. 301; 16 U.S.C. 1604, 1613.

Subpart A—National Forest System Land Management Planning

§ 219.1 Purpose and applicability.

(a) This subpart sets out the planning requirements for developing, amending, and revising land management plans (also referred to as plans) for units of the National Forest System (NFS), as required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976 (16 U.S.C. 1600 *et seq.*) (NFMA). This subpart also sets out the requirements for plan components and other content in land management plans. This part is applicable to all units of the NFS as defined by 16 U.S.C. 1609 or subsequent statute.

(b) Consistent with the Multiple-Use Sustained-Yield Act of 1960 (16 U.S.C. 528–531) (MUSYA), the Forest Service manages the NFS to sustain the multiple use of its renewable resources in perpetuity while maintaining the long-term health and productivity of the land. Resources are managed through a combination of approaches and concepts for the benefit of human communities and natural resources. Land management plans guide sustainable, integrated resource management of the resources within the plan area in the context of the broader landscape, giving due consideration to the relative values of the various resources in particular areas.

(c) The purpose of this part is to guide the collaborative and science-based development, amendment, and revision of land management plans that promote the ecological integrity of national forests and grasslands and other administrative units of the NFS. Plans will guide management of NFS lands so that they are ecologically sustainable and contribute to social and economic sustainability; consist of ecosystems and watersheds with ecological integrity and diverse plant and animal communities; and have the capacity to provide people and communities with ecosystem services and multiple uses that provide a range of social, economic, and ecological benefits for the present and into the future. These benefits include clean air and water; habitat for fish, wildlife, and plant communities; and opportunities for recreational, spiritual, educational, and cultural benefits.

(d) This part does not affect treaty rights or valid existing rights established by statute or legal instruments.

(e) During the planning process, the responsible official shall comply with Section 8106 of the Food, Conservation, and Energy Act of 2008 (25 U.S.C. 3056), Executive Order 13007 of May

24, 1996, Executive Order 13175 of November 6, 2000, laws, and other requirements with respect to disclosing or withholding under the Freedom of Information Act (5 U.S.C. 552) certain information regarding reburial sites or other information that is culturally sensitive to an Indian Tribe or Tribes.

(f) Plans must comply with all applicable laws and regulations, including NFMA, MUSYA, the Clean Air Act, the Clean Water Act, the Wilderness Act, and the Endangered Species Act.

(g) The responsible official shall ensure that the planning process, plan components, and other plan content are within Forest Service authority, the inherent capability of the plan area, and the fiscal capability of the unit.

§ 219.2 Levels of planning and responsible officials.

Forest Service planning occurs at different organizational levels and geographic scales. Planning occurs at three levels—national strategic planning, NFS unit planning, and project or activity planning.

(a) *National strategic planning.* The Chief of the Forest Service is responsible for national planning, such as preparation of the Forest Service strategic plan required under the Government Performance and Results Modernization Act of 2010 (5 U.S.C. 306; 31 U.S.C. 1115–1125; 31 U.S.C. 9703–9704), which is integrated with the requirements of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the NFMA. The strategic plan establishes goals, objectives, performance measures, and strategies for management of the NFS, as well as the other Forest Service mission areas: Research and Development, State and Private Forestry, and International Programs.

(b) *National Forest System unit planning.* (1) NFS unit planning results in the development, amendment, or revision of a land management plan. A land management plan provides a framework for integrated resource management and for guiding project and activity decisionmaking on a national forest, grassland, prairie, or other administrative unit. A plan reflects the unit's expected distinctive roles and contributions to the local area, region, and Nation, and the roles for which the plan area is best suited, considering the Agency's mission, the unit's unique capabilities, and the resources and management of other lands in the vicinity. Through the adaptive planning cycle set forth in this subpart, a plan can be changed to reflect new information and changing conditions.

(2) A plan does not authorize projects or activities or commit the Forest Service to take action. A plan may constrain the Agency from authorizing or carrying out projects and activities, or the manner in which they may occur. Projects and activities must be consistent with the plan (§ 219.15). A plan does not regulate uses by the public, but a project or activity decision that regulates a use by the public under 36 CFR Part 261, Subpart B, may be made contemporaneously with the approval of a plan, plan amendment, or plan revision. Plans should not repeat laws, regulations, or program management policies, practices, and procedures that are in the Forest Service Directive System.

(3) The supervisor of the national forest, grassland, prairie, or other comparable administrative unit is the responsible official for development and approval of a plan, plan amendment, or plan revision for lands under the responsibility of the supervisor, unless a regional forester; the Chief; the Under Secretary, Natural Resources and Environment; or the Secretary acts as the responsible official. Two or more responsible officials may undertake joint planning over lands under their respective jurisdictions.

(4) A plan for a unit that contains an experimental area may not be approved without the concurrence of the appropriate research station director with respect to the direction applicable to that area, and a plan amendment applicable to an experimental area may not be approved without the concurrence of the appropriate research station director.

(5) The Chief is responsible for leadership and direction for carrying out the NFS land management planning program under this part. The Chief shall:

(i) Establish planning procedures for this part in the Forest Service Directive System in Forest Service Manual 1920—Land Management Planning and in Forest Service Handbook 1909.12—Land Management Planning Handbook.

(ii) Establish and administer a national oversight process for accountability and consistency of NFS land management planning under this part.

(iii) Establish procedures in the Forest Service Directive System for obtaining inventory data on the various renewable resources, and soil and water.

(c) *Project and activity planning.* The supervisor or district ranger is the responsible official for project and activity decisions, unless a higher-level official acts as the responsible official. Requirements for project or activity planning are established in the Forest Service Directive System. Except as provided in the plan consistency requirements in § 219.15, none of the requirements of this part apply to projects or activities.

§ 219.3 Role of science in planning.

The responsible official shall use the best available scientific information to inform the planning process required by this subpart. In doing so, the responsible official shall determine what information is the most accurate, reliable, and relevant to the issues being considered. The responsible official shall document how the best available scientific information was used to inform the assessment, the plan decision, and the monitoring program as required in §§ 219.6(a)(3) and 219.14(a)(4). Such documentation must: Identify what information was determined to be the best available scientific information, explain the basis for that determination, and explain how the information was applied to the issues considered.

§ 219.4 Requirements for public participation.

(a) *Providing opportunities for participation.* The responsible official shall provide opportunities to the public for participating in the assessment process; developing a plan proposal, including the monitoring program; commenting on the proposal and the disclosure of its environmental impacts in accompanying NEPA documents; and reviewing the results of monitoring information. When developing opportunities for public participation, the responsible official shall take into account the discrete and diverse roles, jurisdictions, responsibilities, and skills of interested and affected parties; the accessibility of the process, opportunities, and information; and the cost, time, and available staffing. The responsible official should be proactive and use contemporary tools, such as the Internet, to engage the public, and should share information in an open way with interested parties. Subject to the notification requirements in § 219.16, the responsible official has the discretion to determine the scope, methods, forum, and timing of those opportunities. The Forest Service retains decisionmaking authority and responsibility for all decisions throughout the process.

(1) *Outreach.* The responsible official shall engage the public—including Tribes and Alaska Native Corporations, other Federal agencies, State and local

governments, individuals, and public and private organizations or entities—early and throughout the planning process as required by this part, using collaborative processes where feasible and appropriate. In providing opportunities for engagement, the responsible official shall encourage participation by:

(i) Interested individuals and entities, including those interested at the local, regional, and national levels.

(ii) Youth, low-income populations, and minority populations.

(iii) Private landowners whose lands are in, adjacent to, or otherwise affected by, or whose actions may impact, future management actions in the plan area.

(iv) Federal agencies, States, counties, and local governments, including State fish and wildlife agencies, State foresters and other relevant State agencies. Where appropriate, the responsible official shall encourage States, counties, and other local governments to seek cooperating agency status in the NEPA process for development, amendment, or revision of a plan. The responsible official may participate in planning efforts of States, counties, local governments, and other Federal agencies, where practicable and appropriate.

(v) Interested or affected federally recognized Indian Tribes or Alaska Native Corporations. Where appropriate, the responsible official shall encourage federally recognized Tribes to seek cooperating agency status in the NEPA process for development, amendment, or revision of a plan. The responsible official may participate in planning efforts of federally recognized Indian Tribes and Alaska Native Corporations, where practicable and appropriate.

(2) *Consultation with federally recognized Indian Tribes and Alaska Native Corporations.* The Department recognizes the Federal Government has certain trust responsibilities and a unique legal relationship with federally recognized Indian Tribes. The responsible official shall honor the government-to-government relationship between federally recognized Indian Tribes and the Federal government. The responsible official shall provide to federally recognized Indian Tribes and Alaska Native Corporations the opportunity to undertake consultation consistent with Executive Order 13175 of November 6, 2000, and 25 U.S.C. 450 note.

(3) *Native knowledge, indigenous ecological knowledge, and land ethics.* As part of tribal participation and consultation as set forth in paragraphs (a)(1)(v) and (a)(2) of this section, the responsible official shall request information about native knowledge, land ethics, cultural issues, and sacred and culturally significant sites.

(b) *Coordination with other public planning efforts.* (1) The responsible official shall coordinate land management planning with the equivalent and related planning efforts of federally recognized Indian Tribes, Alaska Native Corporations, other Federal agencies, and State and local governments.

(2) For plan development or revision, the responsible official shall review the planning and land use policies of federally recognized Indian Tribes (43 U.S.C. 1712(b)), Alaska Native Corporations, other Federal agencies, and State and local governments, where relevant to the plan area. The results of this review shall be displayed in the environmental impact statement (EIS) for the plan (40 CFR 1502.16(c), 1506.2). The review shall include consideration of:

(i) The objectives of federally recognized Indian Tribes, Alaska Native Corporations, other Federal agencies, and State and local governments, as expressed in their plans and policies;

(ii) The compatibility and interrelated impacts of these plans and policies;

(iii) Opportunities for the plan to address the impacts identified or contribute to joint objectives; and

(iv) Opportunities to resolve or reduce conflicts, within the context of developing the plan's desired conditions or objectives.

(3) Nothing in this section should be read to indicate that the responsible official will seek to direct or control management of lands outside of the plan area, nor will the responsible official conform management to meet non-Forest Service objectives or policies.

§ 219.5 Planning framework.

(a) Planning for a national forest, grassland, prairie, or other comparable administrative unit of the NFS is an iterative process that includes assessment (§ 219.6); developing, amending, or revising a plan (§§ 219.7 and 219.13); and monitoring (§ 219.12). These three phases of the framework are complementary and may overlap. The intent of this framework is to create a responsive planning process that informs integrated resource management and allows the Forest Service to adapt to changing conditions, including climate change, and improve management based on new information and monitoring.

(1) *Assessment.* Assessments rapidly evaluate existing information about relevant ecological, economic, and social conditions, trends, and sustainability and their relationship to the land management plan within the context of the broader landscape. The responsible official shall consider and evaluate existing and possible future conditions and trends of the plan area, and assess the sustainability of social, economic, and ecological systems within the plan area, in the context of the broader landscape (§ 219.6).

(2) *Plan development, plan amendment, or plan revision.*

(i) The process for developing or revising a plan includes: Assessment, preliminary identification of the need to change the plan based on the assessment, development of a proposed plan, consideration of the environmental effects of the proposal, providing an opportunity to comment on the proposed plan, providing an opportunity to object before the proposal is approved, and, finally, approval of the plan or plan revision. A new plan or plan revision requires preparation of an environmental impact statement.

(ii) The process for amending a plan includes: Preliminary identification of the need to change the plan, development of a proposed amendment, consideration of the environmental effects of the proposal, providing an opportunity to comment on the proposed amendment, providing an opportunity to object before the proposal is approved, and, finally, approval of the plan amendment. The appropriate NEPA documentation for an amendment may be an environmental impact statement, an environmental assessment, or a categorical exclusion, depending upon the scope and scale of the amendment and its likely effects.

(3) *Monitoring.* Monitoring is continuous and provides feedback for the planning cycle by testing relevant assumptions, tracking relevant conditions over time, and measuring management effectiveness (§ 219.12). The monitoring program includes plan-level and broader-scale monitoring. The plan-level monitoring program is informed by the assessment phase; developed during plan development, plan amendment, or plan revision; and implemented after plan decision. The regional forester develops broader-scale monitoring strategies. Biennial monitoring evaluation reports document whether a change to the plan or change to the monitoring program is warranted based on new information, whether a new assessment may be needed, or whether there is no need for change at that time.

(b) *Interdisciplinary team(s).* The responsible official shall establish an interdisciplinary team or teams to

prepare assessments; new plans, plan amendments, and plan revisions; and plan monitoring programs.

§ 219.6 Assessment.

The responsible official has the discretion to determine the scope, scale, and timing of an assessment described in § 219.5(a)(1), subject to the requirements of this section.

(a) *Process for plan development or revision assessments.* An assessment must be completed for the development of a new plan or for a plan revision. The responsible official shall:

(1) Identify and consider relevant existing information contained in governmental or non-governmental assessments, plans, monitoring reports, studies, and other sources of relevant information. Such sources of information may include State forest assessments and strategies, the Resources Planning Act assessment, ecoregional assessments, non-governmental reports, State comprehensive outdoor recreation plans, community wildfire protection plans, public transportation plans, State wildlife data and action plans, and relevant Agency or interagency reports, resource plans or assessments. Relevant private information, including relevant land management plans and local knowledge, will be considered if publicly available or voluntarily provided.

(2) Coordinate with or provide opportunities for the regional forester, agency staff from State and Private Forestry and Research and Development, federally recognized Indian Tribes and Alaska Native Corporations, other governmental and non-governmental parties, and the public to provide existing information for the assessment.

(3) Document the assessment in a report available to the public. The report should document information needs relevant to the topics of paragraph (b) of this section. Document in the report how the best available scientific information was used to inform the assessment (§ 219.3). Include the report in the planning record (§ 219.14).

(b) *Content of the assessment for plan development or revision.* In the assessment for plan development or revision, the responsible official shall identify and evaluate existing information relevant to the plan area for the following:

(1) Terrestrial ecosystems, aquatic ecosystems, and watersheds;

(2) Air, soil, and water resources and quality;

(3) System drivers, including dominant ecological processes, disturbance regimes, and stressors, such as natural succession, wildland fire, invasive species, and climate change; and the ability of terrestrial and aquatic ecosystems on the plan area to adapt to change;

(4) Baseline assessment of carbon stocks;

(5) Threatened, endangered, proposed and candidate species, and potential species of conservation concern present in the plan area;

(6) Social, cultural, and economic conditions;

(7) Benefits people obtain from the NFS planning area (ecosystem services);

(8) Multiple uses and their contributions to local, regional, and national economies;

(9) Recreation settings, opportunities and access, and scenic character;

(10) Renewable and nonrenewable energy and mineral resources;

(11) Infrastructure, such as recreational facilities and transportation and utility corridors;

(12) Areas of tribal importance;

(13) Cultural and historic resources and uses;

(14) Land status and ownership, use, and access patterns; and

(15) Existing designated areas located in the plan area including wilderness and wild and scenic rivers and potential need and opportunity for additional designated areas.

(c) *Plan amendment assessments.* Where the responsible official determines that a new assessment is needed to inform an amendment, the responsible official has the discretion to determine the scope, scale, process, and content for the assessment depending on the topic or topics to be addressed.

§ 219.7 New plan development or plan revision.

(a) *Plan revisions.* A plan revision creates a new plan for the entire plan area, whether the plan revision differs from the prior plan to a small or large extent. A plan must be revised at least every 15 years. But, the responsible official has the discretion to determine at any time that conditions on a plan area have changed significantly such that a plan must be revised (16 U.S.C. 1604(f)(5)).

(b) *New plan development.* New plan development is required for new NFS units. The process for developing a new plan is the same as the process for plan revision.

(c) *Process for plan development or revision.* (1) The process for developing or revising a plan includes: Public notification and participation (§§ 219.4 and 219.16), assessment (§§ 219.5 and 219.6), developing a proposed plan, considering the environmental effects of the proposal, providing an opportunity to comment on the proposed plan, providing an opportunity to object before the proposal is approved (subpart B), and, finally, approving the plan or plan revision. A new plan or plan revision requires preparation of an environmental impact statement.

(2) In developing a proposed new plan or proposed plan revision, the responsible official shall:

(i) Review relevant information from the assessment and monitoring to identify a preliminary need to change the existing plan and to inform the development of plan components and other plan content.

(ii) Consider the goals and objectives of the Forest Service strategic plan (§ 219.2(a)).

(iii) Identify the presence and consider the importance of various physical, biological, social, cultural, and historic resources on the plan area (§ 219.6), with respect to the requirements for plan components of §§ 219.8 through 219.11.

(iv) Consider conditions, trends, and stressors (§ 219.6), with respect to the requirements for plan components of §§ 219.8 through 219.11.

(v) Identify and evaluate lands that may be suitable for inclusion in the National Wilderness Preservation System and determine whether to recommend any such lands for wilderness designation.

(vi) Identify the eligibility of rivers for inclusion in the National Wild and Scenic Rivers System, unless a systematic inventory has been previously completed and documented and there are no changed circumstances that warrant additional review.

(vii) Identify existing designated areas other than the areas identified in paragraphs (c)(2)(v) and (c)(2)(vi) of this section, and determine whether to recommend any additional areas for designation. If the responsible official has the delegated authority to designate a new area or modify an existing area, then the responsible official may designate such area when approving the plan, plan amendment, or plan revision.

(viii) Identify the suitability of areas for the appropriate integration of resource management and uses, with respect to the requirements for plan components of §§ 219.8 through 219.11, including identifying lands which are not suitable for timber production (§ 219.11).

(ix) Identify the maximum quantity of timber that may be removed from the plan area (§ 219.11(d)(6)).

(x) Identify questions and indicators for the plan monitoring program (§ 219.12).

(xi) Identify potential other content in the plan (paragraph (f) of this section).

(3) The regional forester shall identify the species of conservation concern for the plan area in coordination with the responsible official.

(d) *Management areas or geographic areas.* Every plan must have management areas or geographic areas or both. The plan may identify designated or recommended designated areas as management areas or geographic areas.

(e) *Plan components.* Plan components guide future project and activity decisionmaking. The plan must indicate whether specific plan components apply to the entire plan area, to specific management areas or geographic areas, or to other areas as identified in the plan.

(1) *Required plan components.* Every plan must include the following plan components:

(i) *Desired conditions.* A desired condition is a description of specific social, economic, and/or ecological characteristics of the plan area, or a portion of the plan area, toward which management of the land and resources should be directed. Desired conditions must be described in terms that are specific enough to allow progress toward their achievement to be determined, but do not include completion dates.

(ii) *Objectives.* An objective is a concise, measurable, and time-specific statement of a desired rate of progress toward a desired condition or conditions. Objectives should be based on reasonably foreseeable budgets.

(iii) *Standards.* A standard is a mandatory constraint on project and activity decisionmaking, established to help achieve or maintain the desired condition or conditions, to avoid or mitigate undesirable effects, or to meet applicable legal requirements.

(iv) *Guidelines.* A guideline is a constraint on project and activity decisionmaking that allows for departure from its terms, so long as the purpose of the guideline is met. (§ 219.15(d)(3)). Guidelines are established to help achieve or maintain a desired condition or conditions, to avoid or mitigate undesirable effects, or to meet applicable legal requirements.

(v) *Suitability of lands.* Specific lands within a plan area will be identified as suitable for various multiple uses or activities based on the desired conditions applicable to those lands. The plan will also identify lands within the plan area as not suitable for uses that are not compatible with desired conditions for those lands. The suitability of lands need not be identified for every use or activity. Suitability identifications may be made after consideration of historic uses and of issues that have arisen in the planning process. Every plan must identify those lands that are not suitable for timber production (§ 219.11).

(2) *Optional plan component: goals.* A plan may include goals as plan components. Goals are broad statements of intent, other than desired conditions, usually related to process or interaction with the public. Goals are expressed in broad, general terms, but do not include completion dates.

(3) *Requirements for the set of plan components.* The set of plan components must meet the requirements set forth in this part for sustainability (§ 219.8), plant and animal diversity (§ 219.9), multiple use (§ 219.10), and timber (§ 219.11).

(f) *Other content in the plan.* (1) *Other required content in the plan.* Every plan must:

(i) Identify watershed(s) that are a priority for maintenance or restoration;

(ii) Describe the plan area's distinctive roles and contributions within the broader landscape;

(iii) Include the monitoring program required by § 219.12; and

(iv) Contain information reflecting proposed and possible actions that may occur on the plan area during the life of the plan, including: the planned timber sale program; timber harvesting levels; and the proportion of probable methods of forest vegetation management practices expected to be used (16 U.S.C. 1604(e)(2) and (f)(2)). Such information is not a commitment to take any action and is not a "proposal" as defined by the Council on Environmental Quality regulations for implementing NEPA (40 CFR 1508.23, 42 U.S.C. 4322(2)(C)).

(2) *Optional content in the plan.* A plan may include additional content, such as potential management approaches or strategies and partnership opportunities or coordination activities.

§ 219.8 Sustainability.

The plan must provide for social, economic, and ecological sustainability within Forest Service authority and consistent with the inherent capability of the plan area, as follows:

(a) *Ecological sustainability.* (1) *Ecosystem Integrity.* The plan must include plan components, including standards or guidelines, to maintain or restore the ecological integrity of terrestrial and aquatic ecosystems and watersheds in the plan area, including plan components to maintain or restore structure, function, composition, and connectivity, taking into account:

(i) Interdependence of terrestrial and aquatic ecosystems in the plan area.

(ii) Contributions of the plan area to ecological conditions within the broader landscape influenced by the plan area.

(iii) Conditions in the broader landscape that may influence the sustainability of resources and ecosystems within the plan area.

(iv) System drivers, including dominant ecological processes, disturbance regimes, and stressors, such as natural succession, wildland fire, invasive species, and climate change; and the ability of terrestrial and aquatic ecosystems on the plan area to adapt to change.

(v) Wildland fire and opportunities to restore fire adapted ecosystems.

(vi) Opportunities for landscape scale restoration.

(2) *Air, soil, and water.* The plan must include plan components, including standards or guidelines, to maintain or restore:

(i) Air quality.

(ii) Soils and soil productivity, including guidance to reduce soil erosion and sedimentation.

(iii) Water quality.

(iv) Water resources in the plan area, including lakes, streams, and wetlands; ground water; public water supplies; sole source aquifers; source water protection areas; and other sources of drinking water (including guidance to prevent or mitigate detrimental changes in quantity, quality, and availability).

(3) *Riparian areas.* (i) The plan must include plan components, including standards or guidelines, to maintain or restore the ecological integrity of riparian areas in the plan area, including plan components to maintain or restore structure, function, composition, and connectivity, taking into account:

(A) Water temperature and chemical composition;

(B) Blockages (uncharacteristic and characteristic) of water courses;

(C) Deposits of sediment;

(D) Aquatic and terrestrial habitats;

(E) Ecological connectivity;

(F) Restoration needs; and

(G) Floodplain values and risk of flood loss.

(ii) Plans must establish width(s) for riparian management zones around all lakes, perennial and intermittent streams, and open water wetlands, within which the plan components required by paragraph (a)(3)(i) of this section will apply, giving special attention to land and vegetation for approximately 100 feet from the edges of all perennial streams and lakes.

(A) Riparian management zone width(s) may vary based on ecological or geomorphic factors or type of water body; and will apply unless replaced by a site-specific delineation of the riparian area.

(B) Plan components must ensure that no management practices causing detrimental changes in water temperature or chemical composition, blockages of water courses, or deposits of sediment that seriously and adversely affect water conditions or fish habitat shall be permitted within the riparian management zones or the site-specific delineated riparian areas.

(4) *Best management practices for water quality.* The Chief shall establish requirements for national best management practices for water quality in the Forest Service Directive System. Plan components must ensure implementation of these practices.

(b) *Social and economic sustainability.* The plan must include plan components, including standards or guidelines, to guide the plan area's contribution to social and economic sustainability, taking into account:

(1) Social, cultural, and economic conditions relevant to the area influenced by the plan;

(2) Sustainable recreation; including recreation settings, opportunities, and access; and scenic character;

(3) Multiple uses that contribute to local, regional, and national economies in a sustainable manner;

(4) Ecosystem services;

(5) Cultural and historic resources and uses; and

(6) Opportunities to connect people with nature.

§ 219.9 Diversity of plant and animal communities.

This section adopts a complementary ecosystem and species-specific approach to maintaining the diversity of plant and animal communities and the persistence of native species in the plan area. Compliance with the ecosystem requirements of paragraph (a) is intended to provide the ecological conditions to both maintain the diversity of plant and animal communities and support the persistence of most native species in the plan area. Compliance with the requirements of paragraph (b) is intended to provide for additional ecological conditions not otherwise provided by compliance with paragraph (a) for individual species as set forth in paragraph (b). The plan must provide for the diversity of plant and animal communities, within Forest Service authority and consistent with the inherent capability of the plan area, as follows:

(a) *Ecosystem plan components.* (1) *Ecosystem integrity.* As required by § 219.8(a), the plan must include plan components, including standards or guidelines, to maintain or restore the ecological integrity of terrestrial and aquatic ecosystems and watersheds in the plan area, including plan components to maintain or restore their structure, function, composition, and connectivity.

(2) *Ecosystem diversity.* The plan must include plan components, including standards or guidelines, to maintain or restore the diversity of ecosystems and habitat types throughout the plan area. In doing so, the plan must include plan components to maintain or restore:

(i) Key characteristics associated with terrestrial and aquatic ecosystem types;

(ii) Rare aquatic and terrestrial plant and animal communities; and

(iii) The diversity of native tree species similar to that existing in the plan area.

(b) *Additional, species-specific plan components.* (1) The responsible official shall determine whether or not the plan components required by paragraph (a) of this section provide the ecological conditions necessary to: contribute to the recovery of federally listed threatened and endangered species, conserve proposed and candidate species, and maintain a viable population of each species of conservation concern within the plan area. If the responsible official determines that the plan components required in paragraph (a) are insufficient to provide such ecological conditions, then additional, species-specific plan components, including standards or guidelines, must be included in the plan to provide such ecological conditions in the plan area.

(2) If the responsible official determines that it is beyond the authority of the Forest Service or not within the inherent capability of the plan area to maintain or restore the ecological conditions to maintain a viable population of a species of conservation concern in the plan area, then the responsible official shall:

(i) Document the basis for that determination (§ 219.14(a)); and

(ii) Include plan components, including standards or guidelines, to maintain or restore ecological conditions within the plan area to contribute to maintaining a viable population of the species within its range. In providing such plan components, the responsible official shall coordinate to the extent practicable with other Federal, State, Tribal, and private land managers having management authority over lands relevant to that population.

(c) *Species of conservation concern.* For purposes of this subpart, a species of conservation concern is a species, other than federally recognized threatened, endangered, proposed, or candidate species, that is known to occur in the plan area and for which the regional forester has determined that the best available scientific information indicates substantial concern about the species' capability to persist over the long-term in the plan area.

§ 219.10 Multiple use.

While meeting the requirements of §§ 219.8 and 219.9, the plan must provide for ecosystem services and multiple uses, including outdoor recreation, range, timber, watershed, wildlife, and fish, within Forest Service authority and the inherent capability of the plan area as follows:

(a) *Integrated resource management for multiple use.* The plan must include plan components, including standards or guidelines, for integrated resource management to provide for ecosystem services and multiple uses in the plan area. When developing plan components for integrated resource management, to the extent relevant to the plan area and the public participation process and the requirements of §§ 219.7, 219.8, 219.9, and 219.11, the responsible official shall consider:

(1) Aesthetic values, air quality, cultural and heritage resources, ecosystem services, fish and wildlife species, forage, geologic features, grazing and rangelands, habitat and habitat connectivity, recreation settings and opportunities, riparian areas, scenery, soil, surface and subsurface water quality, timber, trails, vegetation, viewsheds, wilderness, and other relevant resources and uses.

(2) Renewable and nonrenewable energy and mineral resources.

(3) Appropriate placement and sustainable management of infrastructure, such as recreational facilities and transportation and utility corridors.

(4) Opportunities to coordinate with neighboring landowners to link open spaces and take into account joint management objectives where feasible and appropriate.

(5) Habitat conditions, subject to the requirements of § 219.9, for wildlife, fish, and plants commonly enjoyed and used by the public; for hunting, fishing, trapping, gathering, observing, subsistence, and other activities (in

collaboration with federally recognized Tribes, Alaska Native Corporations, other Federal agencies, and State and local governments).

(6) Land status and ownership, use, and access patterns relevant to the plan area.

(7) Reasonably foreseeable risks to ecological, social, and economic sustainability.

(8) System drivers, including dominant ecological processes, disturbance regimes, and stressors, such as natural succession, wildland fire, invasive species, and climate change; and the ability of the terrestrial and aquatic ecosystems on the plan area to adapt to change (§ 219.8);

(9) Public water supplies and associated water quality.

(10) Opportunities to connect people with nature.

(b) *Requirements for plan components for a new plan or plan revision.* (1) The plan must include plan components, including standards or guidelines, to provide for:

(i) Sustainable recreation; including recreation settings, opportunities, and access; and scenic character. Recreation opportunities may include non-motorized, motorized, developed, and dispersed recreation on land, water, and in the air.

(ii) Protection of cultural and historic resources.

(iii) Management of areas of tribal importance.

(iv) Protection of congressionally designated wilderness areas as well as management of areas recommended for wilderness designation to protect and maintain the ecological and social characteristics that provide the basis for their suitability for wilderness designation.

(v) Protection of designated wild and scenic rivers as well as management of rivers found eligible or determined suitable for the National Wild and Scenic River system to protect the values that provide the basis for their suitability for inclusion in the system.

(vi) Appropriate management of other designated areas or recommended designated areas in the plan area, including research natural areas.

(2) Other plan components for integrated resource management to provide for multiple use as necessary.

§ 219.11 Timber requirements based on the NFMA.

While meeting the requirements of §§ 219.8 through 219.10, the plan must include plan components, including standards or guidelines, and other plan content regarding timber management within Forest Service authority and the inherent capability of the plan area, as follows:

(a) *Lands not suited for timber production.* (1) The responsible official shall identify lands within the plan area as not suited for timber production if any one of the following factors applies:

(i) Statute, Executive order, or regulation prohibits timber production on the land;

(ii) The Secretary of Agriculture or the Chief has withdrawn the land from timber production;

(iii) Timber production would not be compatible with the achievement of desired conditions and objectives established by the plan for those lands;

(iv) The technology is not currently available for conducting timber harvest without causing irreversible damage to soil, slope, or other watershed conditions;

(v) There is no reasonable assurance that such lands can be adequately restocked within 5 years after final regeneration harvest; or

(vi) The land is not forest land.

(2) The responsible official shall review lands identified in the plan as not suited for timber production at least once every 10 years, or as otherwise prescribed by law, to determine whether conditions have changed so that they have become suitable for timber production. As a result of this 10-year review, the plan may be amended to identify any such lands as suitable for timber production, if warranted by changed conditions.

(b) *Timber harvest for purposes of timber production.* A plan that identifies lands as suitable for timber production must include plan components, including standards or guidelines, to guide timber harvest for timber production or for other multiple use purposes on such lands.

(c) *Timber harvest for purposes other than timber production.* Except as provided in paragraph (d) of this section, the plan may include plan components to allow for timber harvest for purposes other than timber production throughout the plan area, or portions of the plan area, as a tool to assist in achieving or maintaining one or more applicable desired conditions or objectives of the plan in order to protect other multiple-use values, and for salvage, sanitation, or public health or safety. Examples of using timber harvest to protect other multiple use values may include improving wildlife or fish habitat, thinning to reduce fire risk, or restoring meadow or savanna ecosystems where trees have invaded.

(d) *Limitations on timber harvest.* Whether timber harvest would be for the purposes of timber production or other purposes, plan components, including standards or guidelines, must ensure the following:

(1) No timber harvest for the purposes of timber production may occur on lands not suited for timber production.

(2) Timber harvest would occur only where soil, slope, or other watershed conditions would not be irreversibly damaged;

(3) Timber harvest would be carried out in a manner consistent with the protection of soil, watershed, fish, wildlife, recreation, and aesthetic resources.

(4) Where plan components will allow clearcutting, seed tree cutting, shelterwood cutting, or other cuts designed to regenerate an even-aged stand of timber, the plan must include standards limiting the maximize size for openings that may be cut in one harvest operation, according to geographic areas, forest types, or other suitable classifications. Except as provided in paragraphs (d)(4)(i) through (iii) of this section, this limit may not exceed 60 acres for the Douglas-fir forest type of California, Oregon, and Washington; 80 acres for the southern yellow pine types of Alabama, Arkansas, Georgia, Florida, Louisiana, Mississippi, North Carolina, South Carolina, Oklahoma, and Texas; 100 acres for the hemlock-Sitka spruce forest type of coastal Alaska; and 40 acres for all other forest types.

(i) Plan standards may allow for openings larger than those specified in paragraph (d)(4) of this section to be cut in one harvest operation where the responsible official determines that larger harvest openings are necessary to help achieve desired ecological conditions in the plan area. If so, standards for exceptions shall include the particular conditions under which the larger size is permitted and must set a maximum size permitted under those conditions.

(ii) Plan components may allow for size limits exceeding those established in paragraphs (d)(4) and (d)(4)(i) of this section on an individual timber sale basis after 60 days public notice and review by the regional forester.

(iii) The plan maximum size for openings to be cut in one harvest operation shall not apply to the size of openings harvested as a result of natural catastrophic conditions such as fire, insect and disease attack, or windstorm (16 U.S.C. 1604(g)(3)(F)(iv)).

(5) Timber will be harvested from NFS lands only where such harvest would comply with the resource protections set out in sections 6(g)(3)(E) and (F) of the NFMA (16 U.S.C. 1604(g)(3)(E) and (F)). Some of these

requirements are listed in paragraphs (d)(2) to (d)(4) of this section.

(6) The quantity of timber that may be sold from the national forest is limited to an amount equal to or less than that which can be removed from such forest annually in perpetuity on a sustained-yield basis. This limit may be measured on a decadal basis. The plan may provide for departures from this limit as provided by the NFMA when departure would be consistent with the plan's desired conditions and objectives. Exceptions for departure from this limit on the quantity sold may be made only after a public review and comment period of at least 90 days. The Chief must include in the Forest Service Directive System procedures for estimating the quantity of timber that can be removed annually in perpetuity on a sustained-yield basis, and exceptions, consistent with 16 U.S.C. 1611.

(7) The regeneration harvest of even-aged stands of trees is limited to stands that generally have reached the culmination of mean annual increment of growth. This requirement would apply only to regeneration harvest of even-aged stands on lands identified as suitable for timber production and where timber production is the primary purpose for the harvest. Plan components may allow for exceptions, set out in 16 U.S.C. 1604(m), only if such harvest is consistent with the other plan components of the land management plan.

§ 219.12 Monitoring.

(a) *Plan monitoring program.* (1) The responsible official shall develop a monitoring program for the plan area and include it in the plan. Monitoring information should enable the responsible official to determine if a change in plan components or other plan content that guide management of resources on the plan area may be needed. The development of the plan monitoring program must be coordinated with the regional forester and Forest Service State and Private Forestry and Research and Development. Responsible officials for two or more administrative units may jointly develop their plan monitoring programs.

(2) The plan monitoring program sets out the plan monitoring questions and associated indicators. Monitoring questions and associated indicators must be designed to inform the management of resources on the plan area, including by testing relevant assumptions, tracking relevant changes, and measuring management effectiveness and progress toward achieving or maintaining the plan's desired conditions or objectives. Questions and indicators should be based on one or more desired conditions, objectives, or other plan components in the plan, but not every plan component needs to have a corresponding monitoring question.

(3) The plan monitoring program should be coordinated and integrated with relevant broader-scale monitoring strategies (paragraph (b) of this section) to ensure that monitoring is complementary and efficient, and that information is gathered at scales appropriate to the monitoring questions.

(4) Subject to the requirements of paragraph (a)(5) of this section, the responsible official has the discretion to set the scope and scale of the plan monitoring program, after considering:

(i) Information needs identified through the planning process as most critical for informed management of resources on the plan area; and

(ii) The financial and technical capabilities of the Agency.

(5) Each plan monitoring program must contain one or more monitoring questions and associated indicators addressing each of the following:

(i) The status of select watershed conditions.

(ii) The status of select ecological conditions including key characteristics of terrestrial and aquatic ecosystems.

(iii) The status of focal species to assess the ecological conditions required under § 219.9.

(iv) The status of a select set of the ecological conditions required under § 219.9 to contribute to the recovery of federally listed threatened and endangered species, conserve proposed and candidate species, and maintain a viable population of each species of conservation concern.

(v) The status of visitor use, visitor satisfaction, and progress toward meeting recreation objectives.

(vi) Measurable changes on the plan area related to climate change and other stressors that may be affecting the plan area.

(vii) Progress toward meeting the desired conditions and objectives in the plan, including for providing multiple use opportunities.

(viii) The effects of each management system to determine that they do not substantially and permanently impair the productivity of the land (16 U.S.C. 1604(g)(3)(C)).

(6) A range of monitoring techniques may be used to carry out the monitoring requirements in paragraph (a)(5) of this section.

(7) This section does not apply to projects or activities. Project and activity monitoring may be used to gather information for the plan monitoring program, and information gathered through plan monitoring may be used to inform development of projects or activities. But, the monitoring requirements of this section are not a prerequisite for making a decision to carry out a project or activity.

(b) *Broader-scale monitoring strategies.* (1) The regional forester shall develop a broader-scale monitoring strategy for plan monitoring questions that can best be answered at a geographic scale broader than one plan area.

(2) When developing a monitoring strategy, the regional forester shall coordinate with the relevant responsible officials, Forest Service State and Private Forestry and Research and Development, partners, and the public. Two or more regional foresters may jointly develop broader-scale monitoring strategies.

(3) Each regional forester shall ensure that the broader-scale monitoring strategy is within the financial and technical capabilities of the region and complements other ongoing monitoring efforts.

(4) Projects and activities may be carried out under plans developed, amended, or revised under this part before the regional forester has developed a broader-scale monitoring strategy.

(c) *Timing and process for developing the plan monitoring program and broader-scale strategies.* (1) The responsible official shall develop the plan monitoring program as part of the planning process for a new plan development or plan revision. Where a plan's monitoring program has been developed under the provisions of a prior planning regulation and the unit has not initiated plan revision under this part, the responsible official shall modify the plan monitoring program within 4 years of the effective date of this part, or as soon as practicable, to meet the requirements of this section.

(2) The regional forester shall develop a broader-scale monitoring strategy as soon as practicable.

(3) To the extent practicable, appropriate, and relevant to the monitoring questions in the plan monitoring program, plan monitoring programs and broader-scale strategies must be designed to take into account:

(i) Existing national and regional inventory, monitoring, and research programs of the Agency, including from the NFS, State and Private Forestry, and Research and Development, and of other

governmental and non-governmental entities;

(ii) Opportunities to design and carry out multi-party monitoring with other Forest Service units, Federal, State or local government agencies, scientists, partners, and members of the public; and

(iii) Opportunities to design and carry out monitoring with federally recognized Indian Tribes and Alaska Native Corporations.

(d) *Biennial evaluation of the monitoring information.* (1) The responsible official shall conduct a biennial evaluation of new information gathered through the plan monitoring program and relevant information from the broader-scale strategy, and shall issue a written report of the evaluation and make it available to the public.

(i) The first monitoring evaluation for a plan or plan revision developed in accordance with this subpart must be completed no later than 2 years from the effective date of plan decision.

(ii) Where the monitoring program developed under the provisions of a prior planning regulation has been modified to meet the requirements of paragraph (c)(1) of this section, the first monitoring evaluation must be completed no later than 2 years from the date the change takes effect.

(iii) The monitoring evaluation report may be postponed for 1 year in case of exigencies, but notice of the postponement must be provided to the public prior to the date the report is due for that year (§ 219.16(c)(6)).

(2) The monitoring evaluation report must indicate whether or not a change to the plan, management activities, or the monitoring program, or a new assessment, may be warranted based on the new information. The monitoring evaluation report must be used to inform adaptive management of the plan area.

(3) The monitoring evaluation report may be incorporated into other planning documents if the responsible official has initiated a plan revision or relevant amendment.

(4) The monitoring evaluation report is not a decision document representing final Agency action, and is not subject to the objection provisions of subpart B.

§ 219.13 Plan amendment and administrative changes.

(a) *Plan amendment.* A plan may be amended at any time. Plan amendments may be broad or narrow, depending on the need for change, and should be used to keep plans current and help units adapt to new information or changing conditions. The responsible official has the discretion to determine whether and how to amend the plan. Except as provided by paragraph (c) of this section, a plan amendment is required to add, modify, or remove one or more plan components, or to change how or where one or more plan components apply to all or part of the plan area (including management areas or geographic areas).

(b) *Amendment process.* The responsible official shall:

(1) Base an amendment on a preliminary identification of the need to change the plan. The preliminary identification of the need to change the plan may be based on a new assessment; a monitoring report; or other documentation of new information, changed conditions, or changed circumstances. When a plan amendment is made together with, and only applies to, a project or activity decision, the analysis prepared for the project or activity may serve as the documentation for the preliminary identification of the need to change the plan;

(2) Provide opportunities for public participation as required in § 219.4 and public notification as required in § 219.16. The responsible official may combine processes and associated public notifications where appropriate, considering the scope and scale of the need to change the plan; and

(3) Amend the plan consistent with Forest Service NEPA procedures. The appropriate NEPA documentation for an amendment may be an environmental impact statement, an environmental assessment, or a categorical exclusion, depending upon the scope and scale of the amendment and its likely effects. A proposed amendment that may create a significant environmental effect and thus require preparation of an environmental impact statement is considered a significant change in the plan for the purposes of the NFMA.

(c) *Administrative changes.* An administrative change is any change to a plan that is not a plan amendment or plan revision. Administrative changes include corrections of clerical errors to any part of the plan, conformance of the plan to new statutory or regulatory requirements, or changes to other content in the plan (§ 219.7(f)).

(1) A substantive change to the monitoring program made outside of the process for plan revision or amendment may be made only after notice to the public of the intended change and consideration of public comment (§ 219.16(c)(6)).

(2) All other administrative changes may be made following public notice (§ 219.16(c)(6)).

§ 219.14 Decision document and planning records.

(a) *Decision document.* The responsible official shall record approval of a new plan, plan amendment, or revision in a decision document prepared according to Forest Service NEPA procedures (36 CFR 220). The decision document must include:

(1) The rationale for approval;

(2) An explanation of how the plan components meet the sustainability requirements of § 219.8, the diversity requirements of § 219.9, the multiple use requirements of § 219.10, and the timber requirements of § 219.11;

(3) A statement of how the plan, plan amendment, or plan revision applies to approved projects and activities (§ 219.15);

(4) The documentation of how the best available scientific information was used to inform planning, the plan components, and other plan content, including the plan monitoring program (§ 219.3);

(5) The concurrence by the appropriate research station director with any part of the plan applicable to any experimental forests or experimental ranges (§ 219.2(b)(4)); and

(6) The effective date of the plan, amendment, or revision.

(b) *Planning records.* (1) The responsible official shall keep the following documents readily accessible to the public by posting them online and through other means: assessment reports (§ 219.6); the plan, including the monitoring program; the proposed plan, plan amendment, or plan revision; public notices and environmental documents associated with a plan; plan decision documents; and monitoring evaluation reports (§ 219.12).

(2) The planning record includes documents that support analytical conclusions made and alternatives considered throughout the planning process. The responsible official shall make the planning record available at the office where the plan, plan amendment, or plan revision was developed.

§ 219.15 Project and activity consistency with the plan.

(a) *Application to existing authorizations and approved projects or activities.* Every decision document approving a plan, plan amendment, or plan revision must state whether authorizations of occupancy and use made before the decision document may proceed unchanged. If a plan decision document does not expressly allow such occupancy and use, the permit, contract, and other authorizing instrument for the use and occupancy must be made

consistent with the plan, plan amendment, or plan revision as soon as practicable, as provided in paragraph (d) of this section, subject to valid existing rights.

(b) *Application to projects or activities authorized after plan decision.* Projects and activities authorized after approval of a plan, plan amendment, or plan revision must be consistent with the plan as provided in paragraph (d) of this section.

(c) *Resolving inconsistency.* When a proposed project or activity would not be consistent with the applicable plan components, the responsible official shall take one of the following steps, subject to valid existing rights:

(1) Modify the proposed project or activity to make it consistent with the applicable plan components;

(2) Reject the proposal or terminate the project or activity;

(3) Amend the plan so that the project or activity will be consistent with the plan as amended; or

(4) Amend the plan contemporaneously with the approval of the project or activity so that the project or activity will be consistent with the plan as amended. This amendment may be limited to apply only to the project or activity.

(d) *Determining consistency.* Every project and activity must be consistent with the applicable plan components. A project or activity approval document must describe how the project or activity is consistent with applicable plan components developed or revised in conformance with this part by meeting the following criteria:

(1) *Goals, desired conditions, and objectives.* The project or activity contributes to the maintenance or attainment of one or more goals, desired conditions, or objectives, or does not foreclose the opportunity to maintain or achieve any goals, desired conditions, or objectives, over the long term.

(2) *Standards.* The project or activity complies with applicable standards.

(3) *Guidelines.* The project or activity:

(i) Complies with applicable guidelines as set out in the plan; or

(ii) Is designed in a way that is as effective in achieving the purpose of the applicable guidelines (§ 219.7(e)(1)(iv)).

(4) *Suitability.* A project or activity would occur in an area:

(i) That the plan identifies as suitable for that type of project or activity; or

(ii) For which the plan is silent with respect to its suitability for that type of project or activity.

(e) *Consistency of resource plans within the planning area with the land management plan.* Any resource plans (for example, travel management plans) developed by the Forest Service that apply to the resources or land areas within the planning area must be consistent with the plan components. Resource plans developed prior to plan decision must be evaluated for consistency with the plan and amended if necessary.

§ 219.16 Public notifications.

The following public notification requirements apply to plan development, amendment, or revision. Notifications may be combined where appropriate.

(a) *When formal public notification is required.* Public notification must be provided as follows:

(1) To initiate the development of a proposed plan, plan amendment, or plan revision;

(2) To invite comments on a proposed plan, plan amendment, or plan revision, and associated environmental analysis. For a new plan, plan amendment, or a plan revision for which a draft environmental impact statement (EIS) is prepared, the comment period is at least 90 days. For an amendment for which a draft EIS is not prepared, the comment period is at least 30 days;

(3) To begin the objection period for a plan, plan amendment, or plan revision before approval (§ 219.52);

(4) To approve a final plan, plan amendment, or plan revision; or

(5) To announce whenever a plan, plan amendment, or plan revision process initiated under the provisions of a previous planning regulation will be conformed to meet the provisions of this part (§ 219.17(b)(3)).

(b) *Project or activity plan amendments.* When a plan amendment is approved in a decision document approving a project or activity and the amendment applies only to the project or activity, the notification requirements of 36 CFR part 215 or part 218, subpart A, applies instead of this section.

(c) *How public notice is provided.* The responsible official should use contemporary tools to provide notice to the public. At a minimum, all public notifications required by this part must be posted online, and:

(1) When the Chief, the Under Secretary, or the Secretary is the responsible official, notice must be published in the **Federal Register**.

(2) For a new plan or plan revision, when an official other than the Chief, the Under Secretary, or the Secretary is the responsible official, notice must be published in the **Federal Register** and the applicable newspaper(s) of record.

(3) When the notice is for the purpose of inviting comments on a proposed plan, plan amendment, or plan revision for which a draft EIS is prepared, the Environmental Protection Agency (EPA) **Federal Register** notice of availability of a draft EIS shall serve as the required **Federal Register** notice.

(4) For a plan amendment when an official other than the Chief, the Under Secretary, or the Secretary is the responsible official, and for which a draft EIS is not prepared, notices must be published in the newspaper(s) of record.

(5) If a plan, plan amendment, or plan revision applies to two or more units, notices must be published in the **Federal Register** and the newspaper(s) of record for the applicable units.

(6) Additional public notice of administrative changes, changes to the monitoring program, opportunities to provide information for assessments, assessment reports, monitoring evaluation reports, or other notices not listed in paragraph (a) of this section may be made in any way the responsible official deems appropriate.

(d) *Content of public notices.* Public notices required by this section except for notices applicable to paragraph (c)(3) of this section, must clearly describe the action subject to notice and the nature and scope of the decisions to be made; identify the responsible official; describe when, where, and how the responsible official will provide opportunities for the public to participate in the planning process; and explain how to obtain additional information.

§ 219.17 Effective dates and transition.

(a) *Effective dates.* (1) A plan or plan revision is effective 30 days after publication of notice of its approval.

(2) Except as provided in paragraph (a)(3) of this section, a plan amendment for which an environmental impact statement (EIS) has been prepared is effective 30 days after publication of notice of its approval; a plan amendment for which an EIS has not been prepared is effective immediately.

(3) A plan amendment that applies to only one specific project or activity is effective on the date the project may be implemented in accordance with administrative review regulations at 36 CFR parts 215 and 218.

(b) *Plan amendment and plan revision transition.* For the purposes of this section, initiation means that the Agency has issued a notice of intent or other notice announcing the beginning of the process to develop a proposed plan, plan amendment, or plan revision.

(1) *Initiating plan development and plan revisions.* Plan development and plan revisions initiated after May 9,

2012 must conform to the requirements of this part.

(2) *Initiating plan amendments.* All plan amendments initiated after May 9, 2012 are subject to the objection process in subpart B of this part. With respect to plans approved or revised under a prior planning regulation, including the transition provisions of the reinstated 2000 rule (36 CFR part 209, published at 36 CFR parts 200 to 209, revised as of July 1, 2010), plan amendments may be initiated under the provisions of the prior planning regulation for 3 years after May 9, 2012, and may be completed and approved under those provisions (except for the optional appeal procedures of the prior planning regulation); or may be initiated, completed, and approved under the requirements of this part. After the 3-year transition period, all plan amendments must be initiated, completed, and approved under the requirements of this part.

(3) *Plan development, plan amendments, or plan revisions initiated before this part.* For plan development, plan amendments, or plan revisions that were initiated before May 9, 2012, the responsible official may complete and approve the plan, plan amendment, or plan revision in conformance with the provisions of the prior planning regulation, including its transition provisions (36 CFR part 209, published at 36 CFR parts 200 to 209, revised as of July 1, 2010), or may conform the plan, plan amendment, or plan revision to the requirements of this part. If the responsible official chooses to complete an ongoing planning process under the provisions of the prior planning regulation, but chooses to allow for an objection rather than an administrative appeal, the objection process in subpart B of this part shall apply. When the responsible official chooses to conform an ongoing planning process to this part, public notice must be made (§ 219.16(a)(5)). An objection process may be chosen only if the public is provided the opportunity to comment on a proposed plan, plan amendment, or plan revision, and associated environmental analysis.

(c) *Plans developed, amended, or revised under a prior planning regulation.* This part supersedes any prior planning regulation. No obligations remain from any prior planning regulation, except those that are specifically included in a unit's existing plan. Existing plans will remain in effect until revised. This part does not compel a change to any existing plan, except as required in § 219.12(c)(1). None of the requirements of this part apply to projects or activities on units with plans developed or revised under a prior planning rule until the plan is revised under this part, except that projects or activities on such units must comply with the consistency requirement of § 219.15 with respect to any amendments that are developed and approved pursuant to this part.

§ 219.18 Severability.

In the event that any specific provision of this part is deemed by a court to be invalid, the remaining provisions shall remain in effect.

§ 219.19 Definitions.

Definitions of the special terms used in this subpart are set out as follows.

Alaska Native Corporation. One of the regional, urban, and village native corporations formed under the Alaska Native Claims Settlement Act of 1971.

Assessment. For the purposes of this subpart, an assessment is the identification and evaluation of existing information to support land management planning. Assessments are not decisionmaking documents, but provide current information on select topics relevant to the plan area, in the context of the broader landscape.

Best management practices for water quality (BMPs). Methods, measures, or practices selected by an agency to meet its nonpoint source control needs. BMPs include but are not limited to structural and nonstructural controls and operation and maintenance procedures. BMPs can be applied before, during, and after pollution-producing activities to reduce or eliminate the introduction of pollutants into receiving waters.

Candidate species. (1) For U.S. Fish and Wildlife Service candidate species, a species for which the U.S. Fish and Wildlife Service possesses sufficient information on vulnerability and threats to support a proposal to list as endangered or threatened, but for which no proposed rule has yet been published by the U.S. Fish and Wildlife Service.

(2) For National Marine Fisheries Service candidate species, a species that is:

(i) The subject of a petition to list and for which the National Marine Fisheries Service has determined that listing may be warranted, pursuant to section 4(b)(3)(A) of the Endangered Species Act (16 U.S.C. 1533(b)(3)(A)), or

(ii) Not the subject of a petition but for which the National Marine Fisheries Service has announced in the **Federal Register** the initiation of a status review.

Collaboration or collaborative process. A structured manner in which a collection of people with diverse interests share knowledge, ideas, and resources while working together in an inclusive and cooperative manner toward a common purpose. Collaboration, in the context of this part, falls within the full spectrum of public engagement described in the Council on Environmental Quality's publication of October, 2007: Collaboration in NEPA—A Handbook for NEPA Practitioners.

Connectivity. Ecological conditions that exist at several spatial and temporal scales that provide landscape linkages that permit the exchange of flow, sediments, and nutrients; the daily and seasonal movements of animals within home ranges; the dispersal and genetic interchange between populations; and the long distance range shifts of species, such as in response to climate change.

Conservation. The protection, preservation, management, or restoration of natural environments, ecological communities, and species.

Conserve. For purposes of § 219.9, to protect, preserve, manage, or restore natural environments and ecological communities to potentially avoid federally listing of proposed and candidate species.

Culmination of mean annual increment of growth. See mean annual increment of growth.

Designated area. An area or feature identified and managed to maintain its unique special character or purpose. Some categories of designated areas may be designated only by statute and some categories may be established administratively in the land management planning process or by other administrative processes of the Federal executive branch. Examples of statutorily designated areas are national heritage areas, national recreational areas, national scenic trails, wild and scenic rivers, wilderness areas, and wilderness study areas. Examples of administratively designated areas are experimental forests, research natural areas, scenic byways, botanical areas, and significant caves.

Disturbance. Any relatively discrete event in time that disrupts ecosystem, watershed, community, or species population structure and/or function and changes resources, substrate availability, or the physical environment.

Disturbance regime. A description of the characteristic types of disturbance on a given landscape; the frequency, severity, and size distribution of these characteristic disturbance types; and their interactions.

Ecological conditions. The biological and physical environment that can affect the diversity of plant and animal communities, the persistence of native species, and the productive capacity of ecological systems. Ecological

conditions include habitat and other influences on species and the environment. Examples of ecological conditions include the abundance and distribution of aquatic and terrestrial habitats, connectivity, roads and other structural developments, human uses, and invasive species.

Ecological integrity. The quality or condition of an ecosystem when its dominant ecological characteristics (for example, composition, structure, function, connectivity, and species composition and diversity) occur within the natural range of variation and can withstand and recover from most perturbations imposed by natural environmental dynamics or human influence.

Ecological sustainability. See sustainability.

Ecological system. See ecosystem.

Economic sustainability. See sustainability.

Ecosystem. A spatially explicit, relatively homogeneous unit of the Earth that includes all interacting organisms and elements of the abiotic environment within its boundaries. An ecosystem is commonly described in terms of its:

(1) Composition. The biological elements within the different levels of biological organization, from genes and species to communities and ecosystems.

(2) Structure. The organization and physical arrangement of biological elements such as, snags and down woody debris, vertical and horizontal distribution of vegetation, stream habitat complexity, landscape pattern, and connectivity.

(3) Function. Ecological processes that sustain composition and structure, such as energy flow, nutrient cycling and retention, soil development and retention, predation and herbivory, and natural disturbances such as wind, fire, and floods.

(4) Connectivity. (see connectivity above).

Ecosystem diversity. The variety and relative extent of ecosystems.

Ecosystem services. Benefits people obtain from ecosystems, including:

(1) *Provisioning services,* such as clean air and fresh water, energy, fuel, forage, fiber, and minerals;

(2) *Regulating services,* such as long term storage of carbon; climate regulation; water filtration, purification, and storage; soil stabilization; flood control; and disease regulation;

(3) *Supporting services,* such as pollination, seed dispersal, soil formation, and nutrient cycling; and

(4) *Cultural services,* such as educational, aesthetic, spiritual and cultural heritage values, recreational experiences and tourism opportunities.

Environmental assessment (EA). See definition in § 219.62.

Environmental document. For the purposes of this part: an environmental assessment, environmental impact statement, finding of no significant impact, categorical exclusion, and notice of intent to prepare an environmental impact statement.

Environmental impact statement (EIS). See definition in § 219.62.

Even-aged stand. A stand of trees composed of a single age class.

Federally recognized Indian Tribe. An Indian or Alaska Native Tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian Tribe under the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 479a.

Focal species. A small subset of species whose status permits inference to the integrity of the larger ecological system to which it belongs and provides meaningful information regarding the effectiveness of the plan in maintaining or restoring the ecological conditions to maintain the diversity of plant and animal communities in the plan area. Focal species would be commonly selected on the basis of their functional role in ecosystems.

Forest land. Land at least 10 percent occupied by forest trees of any size or formerly having had such tree cover and not currently developed for non-forest uses. Lands developed for non-forest use include areas for crops, improved pasture, residential or administrative areas, improved roads of any width and adjoining road clearing, and power line clearings of any width.

Geographic area. A spatially contiguous land area identified within the planning area. A geographic area may overlap with a management area.

Inherent capability of the plan area. The ecological capacity or ecological potential of an area characterized by the interrelationship of its physical elements, its climatic regime, and natural disturbances.

Integrated resource management. Multiple use management that recognizes the interdependence of ecological resources and is based on the need for integrated consideration of ecological, social, and economic factors.

Landscape. A defined area irrespective of ownership or other artificial boundaries, such as a spatial mosaic of terrestrial and aquatic ecosystems, landforms, and plant communities, repeated in similar form throughout such a defined area.

Maintain. In reference to an ecological condition: To keep in existence or continuance of the desired ecological condition in terms of its desired composition, structure, and processes. Depending upon the circumstance, ecological conditions may be maintained by active or passive management or both.

Management area. A land area identified within the planning area that has the same set of applicable plan components. A management area does not have to be spatially contiguous.

Management system. For purposes of this subpart, a timber management system including even-aged management and uneven-aged management.

Mean annual increment of growth and culmination of mean annual increment of growth. Mean annual increment of growth is the total increment of increase of volume of a stand (standing crop plus thinnings) up to a given age divided by that age. Culmination of mean annual increment of growth is the age in the growth cycle of an even-aged stand at which the average annual rate of increase of volume is at a maximum. In land management plans, mean annual increment is expressed in cubic measure and is based on the expected growth of stands, according to intensities and utilization guidelines in the plan.

Monitoring. A systematic process of collecting information to evaluate effects of actions or changes in conditions or relationships.

Multiple use. The management of all the various renewable surface resources of the NFS so that they are utilized in the combination that will best meet the needs of the American people; making the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; that some land will be used for less than all of the resources; and harmonious and coordinated management of the various resources, each with the other, without impairment of the productivity of the land, with consideration being given to the relative values of the various resources, and not necessarily the combination of uses that will give the greatest dollar return or the greatest unit output, consistent with the Multiple-Use Sustained-Yield Act of 1960 (16 U.S.C. 528–531).

National Forest System. See definition in § 219.62.

Native knowledge. A way of knowing or understanding the world, including traditional ecological and social knowledge of the environment derived from multiple generations of indigenous peoples' interactions, observations, and

experiences with their ecological systems. Native knowledge is place-based and culture-based knowledge in which people learn to live in and adapt to their own environment through interactions, observations, and experiences with their ecological system. This knowledge is generally not solely gained, developed by, or retained by individuals, but is rather accumulated over successive generations and is expressed through oral traditions, ceremonies, stories, dances, songs, art, and other means within a cultural context.

Native species. An organism that was historically or is present in a particular ecosystem as a result of natural migratory or evolutionary processes; and not as a result of an accidental or deliberate introduction into that ecosystem. An organism's presence and evolution (adaptation) in an area are determined by climate, soil, and other biotic and abiotic factors.

Newspaper(s) of record. See definition in § 219.62.

Objection. See definition in § 219.62.

Online. See definition in § 219.62.

Participation. Activities that include a wide range of public involvement tools and processes, such as collaboration, public meetings, open houses, workshops, and comment periods.

Persistence. Continued existence.

Plan area. The NFS lands covered by a plan.

Plan or land management plan. A document or set of documents that provide management direction for an administrative unit of the NFS developed under the requirements of this part or a prior planning rule.

Plant and animal community. A naturally occurring assemblage of plant and animal species living within a defined area or habitat.

Productivity. The capacity of NFS lands and their ecological systems to provide the various renewable resources in certain amounts in perpetuity. For the purposes of this subpart, productivity is an ecological term, not an economic term.

Project. An organized effort to achieve an outcome on NFS lands identified by location, tasks, outputs, effects, times, and responsibilities for execution.

Proposed Species. Any species of fish, wildlife, or plant that is proposed by the U.S. Fish and Wildlife Service or the National Marine Fisheries Service in the **Federal Register** to be listed under Section 4 of the Endangered Species Act.

Recovery. For the purposes of this subpart, and with respect to threatened or endangered species: The improvement in the status of a listed species to the point at which listing as federally endangered or threatened is no longer appropriate.

Recreation. See Sustainable recreation.

Recreation opportunity. An opportunity to participate in a specific recreation activity in a particular recreation setting to enjoy desired recreation experiences and other benefits that accrue. Recreation opportunities include non-motorized, motorized, developed, and dispersed recreation on land, water, and in the air.

Recreation setting. The social, managerial, and physical attributes of a place that, when combined, provide a distinct set of recreation opportunities. The Forest Service uses the recreation opportunity spectrum to define recreation settings and categorize them into six distinct classes: primitive, semi-primitive non-motorized, semi-primitive motorized, roaded natural, rural, and urban.

Responsible official. See definition in § 219.62.

Restoration. The process of assisting the recovery of an ecosystem that has been degraded, damaged, or destroyed. Ecological restoration focuses on reestablishing the composition, structure, pattern, and ecological processes necessary to facilitate terrestrial and aquatic ecosystems sustainability, resilience, and health under current and future conditions.

Restore. To renew by the process of restoration (see restoration).

Riparian Areas. Three-dimensional ecotones of interaction that include terrestrial and aquatic ecosystems that extend down into the groundwater, up above the canopy, outward across the floodplain, up the near-slopes that drain to the water, laterally into the terrestrial ecosystem, and along the water course at variable widths.

Riparian management zone. Portions of a watershed where riparian-dependent resources receive primary emphasis, and for which plans include plan components to maintain or restore riparian functions and ecological functions.

Risk. A combination of the likelihood that a negative outcome will occur and the severity of the subsequent negative consequences.

Scenic character. A combination of the physical, biological, and cultural images that gives an area its scenic identity and contributes to its sense of place. Scenic character provides a frame of reference from which to determine scenic attractiveness and to measure scenic integrity.

Social sustainability. See sustainability.

Sole source aquifer. Underground water supply designated by the Environmental Protection Agency (EPA) as the "sole or principle" source of drinking water for an area as established under section 1424(e) of the Safe Drinking Water Act (42 U.S.C. 300h–3(e)).

Source water protection areas. The area delineated by a State or Tribe for a public water system (PWS) or including numerous PWSs, whether the source is ground water or surface water or both, as part of a State or tribal source water assessment and protection program (SWAP) approved by Environmental Protection Agency under section 1453 of the Safe Drinking Water Act (42 U.S.C. 300h–3(e)).

Stressors. For the purposes of this subpart: Factors that may directly or indirectly degrade or impair ecosystem composition, structure or ecological process in a manner that may impair its ecological integrity, such as an invasive species, loss of connectivity, or the disruption of a natural disturbance regime.

Sustainability. The capability to meet the needs of the present generation without compromising the ability of future generations to meet their needs. For purposes of this part, "ecological sustainability" refers to the capability of ecosystems to maintain ecological integrity; "economic sustainability" refers to the capability of society to produce and consume or otherwise benefit from goods and services including contributions to jobs and market and nonmarket benefits; and "social sustainability" refers to the capability of society to support the network of relationships, traditions, culture, and activities that connect people to the land and to one another, and support vibrant communities.

Sustainable recreation. The set of recreation settings and opportunities on the National Forest System that is ecologically, economically, and socially sustainable for present and future generations.

Timber harvest. The removal of trees for wood fiber use and other multiple-use purposes.

Timber production. The purposeful growing, tending, harvesting, and regeneration of regulated crops of trees to be cut into logs, bolts, or other round sections for industrial or consumer use.

Viable population. A population of a species that continues to persist over the long term with sufficient distribution to be resilient and adaptable to stressors and likely future environments.

Watershed. A region or land area drained by a single stream, river, or drainage network; a drainage basin.

Watershed condition. The state of a watershed based on physical and biogeochemical characteristics and processes.

Wild and scenic river. A river designated by Congress as part of the National Wild and Scenic Rivers System that was established in the Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271 (note), 1271–1287).

Wilderness. Any area of land designated by Congress as part of the National Wilderness Preservation System that was established in the Wilderness Act of 1964 (16 U.S.C. 1131–1136).

Subpart B—Pre-Decisional Administrative Review Process

§ 219.50 Purpose and scope.

This subpart establishes a pre-decisional administrative review (hereinafter referred to as objection) process for plans, plan amendments, or plan revisions. This process gives an individual or entity an opportunity for an independent Forest Service review and resolution of issues before the approval of a plan, plan amendment, or plan revision. This subpart identifies who may file objections to a plan, plan amendment, or plan revision; the responsibilities of the participants in an objection; and the procedures that apply to the review of the objection.

§ 219.51 Plans, plan amendments, or plan revisions not subject to objection.

(a) A plan, plan amendment, or plan revision is not subject to objection when the responsible official receives no substantive formal comments (§ 219.62) on that proposal during the opportunities for public comment (§ 219.53(a)).

(b) Plans, plan amendments, or plan revisions proposed by the Secretary of Agriculture or the Under Secretary for Natural Resources and Environment are not subject to the procedures set forth in this section. A decision by the Secretary or Under Secretary constitutes the final administrative determination of the U.S. Department of Agriculture.

(c) A plan, plan amendment, or plan revision is not subject to objection under this subpart if another administrative review process is used consistent with § 219.59.

(d) When a plan, plan amendment, or plan revision is not subject to objection under this subpart, the responsible official shall include an explanation with the signed decision document.

§ 219.52 Giving notice of a plan, plan amendment, or plan revision subject to objection before approval.

(a) The responsible official shall disclose during the NEPA scoping process and in the appropriate NEPA documents that the proposed plan, plan amendment, or plan revision is subject to the objection procedures in this subpart. This disclosure is in addition to the public notice that begins the objection filing period, as required at § 219.16. When a responsible official chooses to use the objection process of this subpart for a plan, plan amendment, or plan revision process initiated before the effective date of this rule, notice that the objection process will be used must be given prior to an opportunity to provide substantive formal comment on a proposed plan, plan amendment, or revision and associated environmental analysis.

(b) The responsible official shall make available the public notice for the beginning of the objection period for a plan, plan amendment, or plan revision (§ 219.16(a)(3)) to those who have requested the environmental documents or are eligible to file an objection consistent with § 219.53.

(c) The content of the public notice for the beginning of the objection period for a plan, plan amendment, or plan revision before approval (§ 219.16(a)(3)) must:

(1) Inform the public of the availability of the plan, plan amendment, or plan revision, the appropriate final environmental documents, the draft plan decision document, and any relevant assessment or monitoring evaluation report; the commencement of the objection filing period under 36 CFR part 219 Subpart B; and the process for objecting. The documents in this paragraph will be made available online at the time of public notice.

(2) Include the name of the plan, plan amendment, or plan revision, the name and title of the responsible official, and instructions on how to obtain a copy of the appropriate final environmental documents; the draft plan decision document; and the plan, plan amendment, or plan revision.

(3) Include the name and address of the reviewing officer with whom an objection is to be filed. The notice must specify a street, postal, fax, and email address; the acceptable format(s) for objections filed electronically; and the reviewing officer's office business hours for those filing hand-delivered objections.

(4) Include a statement that objections will be accepted only from those who have previously submitted substantive formal comments specific to the proposed plan, plan amendment, or plan revision during any opportunity for public comment as provided in subpart A.

(5) Include a statement that the publication date of the public notice in the applicable newspaper of record (or the **Federal Register**, if the responsible official is the Chief) is the exclusive means for calculating the time to file an objection (§ 219.56).

(6) Include a statement that an objection, including attachments, must be filed with the appropriate reviewing officer (§ 219.62) within 60 days, if an environmental impact statement has been prepared, otherwise within 45 days of the date of publication of the public notice for the objection process.

(7) Include a statement describing the minimum content requirements of an objection (§ 219.54(c)).

§ 219.53 Who may file an objection.

(a) Individuals and entities who have submitted substantive formal comments related to a plan, plan amendment, or plan revision during the opportunities for public comment as provided in subpart A during the planning process for that decision may file an objection. Objections must be based on previously submitted substantive formal comments attributed to the objector unless the objection concerns an issue that arose after the opportunities for formal comment. The burden is on the objector to demonstrate compliance with requirements for objection. Objections that do not meet the requirements of this paragraph may not be accepted; however, objections not accepted must be documented in the planning record.

(b) Formal comments received from an authorized representative(s) of an entity are considered those of the entity only. Individual members of that entity do not meet objection eligibility requirements solely based on membership in an entity. A member or an individual must submit substantive formal comments independently to be eligible to file an objection in an individual capacity.

(c) When an objection lists multiple individuals or entities, each individual or entity must meet the requirements of paragraph (a) of this section. Individuals or entities listed on an objection that do not meet eligibility requirements may not be considered objectors, although an objection must be accepted (if not otherwise set aside for review under § 219.55) if at least one listed individual or entity meets the eligibility requirements.

(d) Federal agencies may not file objections.

(e) Federal employees who otherwise meet the requirements of this subpart for filing objections in a non-official capacity must comply with Federal conflict of interest statutes at 18 U.S.C. 202–209 and with employee ethics requirements at 5 CFR part 2635. Specifically, employees may not be on official duty nor use government property or equipment in the preparation or filing of an objection. Further, employees may not include information unavailable to the public, such as Federal agency documents that are exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552(b)).

§ 219.54 Filing an objection.

(a) All objections must be filed, in writing, with the reviewing officer for the plan. All objections must be open to public inspection during the objection process.

(b) Including documents by reference is not allowed, except for the following list of items that may be referenced by including the name, date, page number (where applicable), and relevant section of the cited document. All other documents or Web links to those documents, or both must be included with the objection, if referenced in the objection.

(1) All or any part of a Federal law or regulation.

(2) Forest Service Directive System documents and land management plans or other published Forest Service documents.

(3) Documents referenced by the Forest Service in the planning documentation related to the proposal subject to objection.

(4) Formal comments previously provided to the Forest Service by the objector during the proposed plan, plan amendment, or plan revision comment period.

(c) At a minimum, an objection must include the following:

(1) The objector's name and address (§ 219.62), along with a telephone number or email address if available;

(2) Signature or other verification of authorship upon request (a scanned signature for electronic mail may be filed with the objection);

(3) Identification of the lead objector, when multiple names are listed on an objection (§ 219.62). Verification of the identity of the lead objector if requested;

(4) The name of the plan, plan amendment, or plan revision being objected to, and the name and title of the responsible official;

(5) A statement of the issues and/or the parts of the plan, plan amendment, or plan revision to which the objection applies;

(6) A concise statement explaining the objection and suggesting how the proposed plan decision may be improved. If applicable, the objector should identify how the objector believes that the plan, plan amendment, or plan revision is inconsistent with law, regulation, or policy; and

(7) A statement that demonstrates the link between prior substantive formal comments attributed to the objector and the content of the objection, unless the objection concerns an issue that arose after the opportunities for formal comment (§ 219.53(a)).

§ 219.55 Objections set aside from review.

(a) The reviewing officer shall set aside and not review an objection when one or more of the following applies:

(1) Objections are not filed in a timely manner (§ 219.56);

(2) The proposed plan, plan amendment, or plan revision is not subject to the objection procedures of this subpart pursuant to §§ 219.51 and 219.59;

(3) The individual or entity did not submit substantive formal comments (§ 219.53) during opportunities for public comment on the proposed decision (§ 219.16(a)(1) and (a)(2));

(4) None of the issues included in the objection is based on previously submitted substantive formal comments unless one or more of those issues arose after the opportunities for formal comment;

(5) The objection does not provide sufficient information as required by § 219.54(c);

(6) The objector withdraws the objection in writing;

(7) The objector's identity is not provided or cannot be determined from the signature (written or electronically scanned), and a reasonable means of contact is not provided (§ 219.54(c)); or

(8) The objection is illegible for any reason and a legible copy cannot easily be obtained.

(b) When an objection includes an issue that is not based on previously submitted substantive formal comments and did not arise after the opportunities for formal comment, that issue will be set aside and not reviewed. Other issues raised in the objection that meet the requirements of this subpart will be reviewed.

(c) The reviewing officer shall give written notice to the objector and the responsible official when an objection or part of an objection is set aside from review and shall state the reasons for not reviewing the objection in whole or part. If the objection is set aside from review for reasons of illegibility or lack of a means of contact, the reasons must be documented in the planning record.

§ 219.56 Objection time periods and process.

(a) *Time to file an objection.* For a new plan, plan amendment, or plan revision for which an environmental impact statement (EIS) is prepared, written objections, including any attachments, must be filed within 60 days following the publication date of the public notice for a plan, plan amendment, or plan revision before approval (§§ 219.16 and 219.52). For an amendment for which an EIS is not prepared, the time to file an objection is within 45 days. It is the responsibility of the objector to ensure that the reviewing officer receives the objection in a timely manner.

(b) *Computation of time periods.* (1) All time periods are computed using calendar days, including Saturdays, Sundays, and Federal holidays in the time zone of the reviewing officer. However, when the time period expires on a Saturday, Sunday, or Federal holiday, the time is extended to the end of the next Federal working day (11:59 p.m. for objections filed by electronic means such as email or facsimile machine).

(2) The day after publication of the public notice for a plan, plan amendment, or plan revision before approval (§§ 219.16 and 219.52), is the first day of the objection filing period.

(3) The publication date of the public notice for a plan, plan amendment, or plan revision before approval (§§ 219.16 and 219.52), is the exclusive means for calculating the time to file an objection. Objectors may not rely on dates or timeframe information provided by any other source.

(c) *Evidence of timely filing.* The objector is responsible for filing the objection in a timely manner. Timeliness must be determined by one of the following indicators:

(1) The date of the U.S. Postal Service postmark for an objection received before the close of the fifth business day after the objection filing date;

(2) The electronically generated posted date and time for email and facsimiles;

(3) The shipping date for delivery by private carrier for an objection received before the close of the fifth business day after the objection filing date; or

(4) The official agency date stamp showing receipt of hand delivery.

(d) *Extensions.* Time extensions for filing are not permitted except as provided at paragraph (b)(1) of this section.

(e) *Reviewing officer role and responsibilities.* The reviewing officer is the U.S. Department of Agriculture (USDA) or Forest Service official having the delegated authority and responsibility to review an objection filed under this subpart. The reviewing officer is a line officer at the next higher administrative level above the responsible official; except that:

(1) For a plan amendment, that next higher-level line officer may delegate the reviewing officer authority and responsibility to a line officer at the same administrative level as the responsible official. Any plan amendment delegation of reviewing officer responsibilities must be made prior to the public notification of an objection filing period (§ 219.52).

(2) For an objection or part of an objection specific to the identification of species of conservation concern, the regional forester who identified the species of conservation concern for the plan area may not be the reviewing officer. The Chief may choose to act as the reviewing officer or may delegate the reviewing officer authority to a line officer at the same administrative level as the regional forester. The reviewing officer for the plan will convey any such objections or parts thereof to the appropriate line officer.

(f) *Notice of objections filed.* Within 10 days after the close of the objection period, the responsible official shall publish a notice of all objections in the applicable newspaper of record and post the notice online.

(g) *Response to objections.* The reviewing officer must issue a written response to the objector(s) concerning their objection(s) within 90 days of the end of the objection-filing period. The reviewing officer has the discretion to extend the time when it is determined to be necessary to provide adequate response to objections or to participate in discussions with the parties. The reviewing officer must notify all parties (lead objectors and interested persons) in writing of any extensions.

§ 219.57 Resolution of objections.

(a) *Meetings.* Prior to the issuance of the reviewing officer's written response, either the reviewing officer or the objector may request to meet to discuss issues raised in the objection and potential resolution. The reviewing officer must allow other interested persons to participate in such meetings. An interested person must file a request to participate in an objection within 10 days after publication of the notice of objection by the responsible official (§ 219.56(f)). The responsible official shall be a participant in all meetings involving the reviewing officer, objectors, and interested persons. During meetings with objectors and interested persons, the reviewing officer may choose to use alternative dispute resolution methods to resolve objections. All meetings are open to observation by the public.

(b) *Response to objections.* (1) The reviewing officer must render a written response to the objection(s) within 90 days of the close of the objection-filing period, unless the allowable time is extended as provided at § 219.56(g). A written response must set forth the reasons for the response but need not be a point-by-point response, and may contain instructions to the responsible official. In cases involving more than one objection to a plan, plan amendment, or plan revision, the reviewing officer may consolidate objections and issue one or more responses. The response must be sent to the objecting party(ies) by certified mail, return receipt requested, and posted online.

(2) The reviewing officer's review of and response to the objection(s) is limited to only those issues and concerns submitted in the objection(s).

(3) The response of the reviewing officer will be the final decision of the U.S. Department of Agriculture on the objection.

§ 219.58 Timing of a plan, plan amendment, or plan revision decision.

(a) The responsible official may not issue a decision document concerning a plan, plan amendment, or plan revision subject to the provisions of this subpart until the reviewing officer has responded in writing to all objections.

(b) A decision by the responsible official approving a plan, plan amendment, or plan revision must be consistent with the reviewing officer's response to objections.

(c) When no objection is filed within the allotted filing period, the reviewing officer must notify the responsible official. The responsible official's approval of the plan, plan amendment, or plan revision in a plan decision document consistent with § 219.14, may occur on, but not before, the fifth business day following the end of the objection-filing period.

§ 219.59 Use of other administrative review processes.

(a) Where the Forest Service is a participant in a multi-federal agency effort that would otherwise be subject to objection under this subpart, the responsible official may waive the objection procedures of this subpart and instead adopt the administrative review procedure of another participating Federal agency. As a condition of such a waiver, the responsible official for the Forest Service must have agreement with the responsible official of the other agency or agencies that a joint agency response will be provided to those who file for administrative review of the multi-agency effort. When such an agreement is reached, the responsible official for the Forest Service shall ensure public notice required in § 219.52 sets forth which administrative review procedure is to be used.

(b) When a plan amendment is approved in a decision document approving a project or activity and the amendment applies only to the project or activity, the administrative review process of 36 CFR part 215 or part 218, subpart A, applies instead of the objection process established in this subpart. When a plan amendment applies to all future projects or activities, the objection process established in this subpart applies only to the plan amendment decision; the review process of 36 CFR part 215 or part 218 would apply to the project or activity part of the decision.

§ 219.60 Secretary's authority.

Nothing in this subpart restricts the Secretary of Agriculture from exercising any statutory authority regarding the protection, management, or administration of NFS lands.

§ 219.61 Information collection requirements.

This subpart specifies the information that objectors must give in an objection to a plan, plan amendment, or plan revision (§ 219.54(c)). As such, this subpart contains information collection requirements as defined in 5 CFR part 1320 and have been approved by the Office of Management and Budget and assigned control number 0596–0158.

§ 219.62 Definitions.

Definitions of the special terms used in this subpart are set out as follows.

Address. An individual's or entity's current mailing address used for postal service or other delivery services. An email address is not sufficient.

Decision memo. A concise written record of the responsible official's decision to implement an action that is categorically excluded from further analysis and documentation in an environmental impact statement (EIS) or environmental assessment (EA), where the action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment, and does not give rise to extraordinary circumstances

in which a normally excluded action may have a significant environmental effect.

Environmental assessment (EA). A public document that provides sufficient evidence and analysis for determining whether to prepare an EIS or a finding of no significant impact, aids an agency's compliance with the National Environmental Policy Act (NEPA) when no EIS is necessary, and facilitates preparation of a statement when one is necessary (40 CFR 1508.9; FSH 1909.15, Chapter 40).

Environmental impact statement (EIS). A detailed written statement as required by section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969 (40 CFR 1508.11; 36 CFR 220).

Formal comments. See substantive formal comments.

Lead objector. For an objection submitted with multiple individuals, multiple entities, or combination of individuals and entities listed, the individual or entity identified to represent all other objectors for the purposes of communication, written or otherwise, regarding the objection.

Line officer. A Forest Service official who serves in a direct line of command from the Chief.

Name. The first and last name of an individual or the name of an entity. An electronic username is insufficient for identification of an individual or entity.

National Forest System. The National Forest System includes national forests, national grasslands, and the National Tallgrass Prairie.

Newspaper(s) of record. The newspaper(s) of record is (are) the principal newspaper(s) of general circulation annually identified and published in the **Federal Register** by each regional forester to be used for publishing notices as required by 36 CFR 215.5. The newspaper(s) of record for projects in a plan area is (are) the newspaper(s) of record for notices related to planning.

Objection. The written document filed with a reviewing officer by an individual or entity seeking pre-decisional administrative review of a plan, plan amendment, or plan revision.

Objection period. The allotted filing period following publication of a public notice in the applicable newspaper of record (or the **Federal Register**, if the responsible official is the Chief) of the availability of the appropriate environmental documents and draft decision document, including a plan, plan amendment, or plan revision during which an objection may be filed with the reviewing officer.

Objection process. Those procedures established for pre-decisional administrative review of a plan, plan amendment, or plan revision.

Objector. An individual or entity who meets the requirements of § 219.53, and files an objection that meets the requirements of §§ 219.54 and 219.56.

Online. Refers to the appropriate Forest Service Web site or future electronic equivalent.

Responsible official. The official with the authority and responsibility to oversee the planning process and to approve a plan, plan amendment, and plan revision.

Reviewing officer. The USDA or Forest Service official having the delegated authority and responsibility to review an objection filed under this subpart.

Substantive formal comments. Written comments submitted to, or oral comments recorded by, the responsible official or his designee during an opportunity for public participation provided during the planning process (§§ 219.4 and 219.16), and attributed to the individual or entity providing them. Comments are considered substantive when they are within the scope of the proposal, are specific to the proposal, have a direct relationship to the proposal, and include supporting reasons for the responsible official to consider.

Dated: March 23, 2012.

Harris D. Sherman,

Under Secretary, Natural Resources and Environment.

[FR Doc. 2012–7502 Filed 4–6–12; 8:45 am]

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1982 Rule

National Forest System Land and Resource Management Planning

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National Forest System Land and Resource Management Planning

Authority. Secs. 6 and 15, 90 Stat. 2949, 2952, 2958 (16 U.S.C. 1604, 1613); and 5 U.S.C. 301.

Source: 47 FR 43037, Sept. 30, 1982, unless otherwise noted.

Sec. 219.1 Purpose and principles.

(a) The regulations in this subpart set forth a process for developing, adopting, and revising land and resource management plans for the National Forest System as required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended (hereafter, RPA). These regulations prescribe how land and resource management planning is to be conducted on National Forest System lands. The resulting plans shall provide for multiple use and sustained yield of goods and services from the National Forest System in a way that maximizes long term net public benefits in an environmentally sound manner.

(b) Plans guide all natural resource management activities and establish management standards and guidelines for the National Forest System. They determine resource management practices, levels of resource production and management, and the availability and suitability of lands for resource management. Regional and forest planning will be based on the following principles:

(1) Establishment of goals and objectives for multiple-use and sustained-yield management of renewable resources without impairment of the productivity of the land;

(2) Consideration of the relative values of all renewable resources, including the relationship of nonrenewable resources, such as minerals, to renewable resources;

(3) Recognition that the National Forests are ecosystems and their management for goods and services requires an awareness and consideration of the interrelationships among plants, animals, soil, water, air, and other environmental factors within such ecosystems;

(4) Protection and, where appropriate, improvement of the quality of renewable resources;

(5) Preservation of important historic, cultural, and natural aspects of our national heritage;

(6) Protection and preservation of the inherent right of freedom of American Indians to believe, express, and exercise their traditional religions;

(7) Provision for the safe use and enjoyment of the forest resources by the public;

(8) Protection, through ecologically compatible means, of all forest and rangeland resources from depredations by forest and rangeland pests;

(9) Coordination with the land and resource planning efforts of other Federal agencies, State and local governments, and Indian tribes;

(10) Use of a systematic, interdisciplinary approach to ensure coordination and integration of planning activities for multiple-use management;

(11) Early and frequent public participation;

(12) Establishment of quantitative and qualitative standards and guidelines for land and resource planning and management;

(13) Management of National Forest System lands in a manner that is sensitive to economic efficiency; and

(14) Responsiveness to changing conditions of land and other resources and to changing social and

economic demands of the American people.

Sec. 219.2 Scope and applicability.

The regulations in this subpart apply to the National Forest System, which includes special areas, such as wilderness, wild and scenic rivers, national recreation areas, and national trails. Whenever the special area authorities require additional planning, the planning process under this subpart shall be subject to those authorities.

(a) Unless inconsistent with special area authorities, requirements for additional planning for special areas shall be met through plans required under this subpart.

(b) If, in a particular case, special area authorities require the preparation of a separate special area plan, the direction in any such plan may be incorporated without modification in plans prepared under this subpart.

Sec. 219.3 Definitions and terminology.

For purposes of this subpart the following terms, respectively, shall mean:

Allowable sale quantity: The quantity of timber that may be sold from the area of suitable land covered by the forest plan for a time period specified by the plan. This quantity is usually expressed on an annual basis as the ``average annual allowable sale quantity.''

Base sale schedule: A timber sale schedule formulated on the basis that the quantity of timber planned for sale and harvest for any future decade is equal to or greater than the planned sale and harvest for the preceding decade, and this planned sale and harvest for any decade is not greater than the long-term sustained yield capacity.

Biological growth potential: The average net growth attainable in a fully stocked natural forest stand.

Capability: The potential of an area of land to produce resources, supply goods and services, and allow resource uses under an assumed set of management practices and at a given level of management intensity. Capability depends upon current conditions and site conditions such as climate, slope, landform, soils, and geology, as well as the application of management practices, such as silviculture or protection from fire, insects, and disease.

Corridor: A linear strip of land identified for the present or future location of transportation or utility rights-of-way within its boundaries.

Cost efficiency: The usefulness of specified inputs (costs) to produce specified outputs (benefits). In measuring cost efficiency, some outputs, including environmental, economic, or social impacts, are not

assigned monetary values but are achieved at specified levels in the least cost manner. Cost efficiency is usually measured using present net value, although use of benefit-cost ratios and rates-of-return may be appropriate.

Diversity: The distribution and abundance of different plant and animal communities and species within the area covered by a land and resource management plan.

Even-aged management: The application of a combination of actions that results in the creation of stands in which trees of essentially the same age grow together. Managed even-aged forests are characterized by a distribution of stands of varying ages (and, therefore, tree sizes) throughout the forest area. The difference in age between trees forming the main canopy level of a stand usually does not exceed 20 percent of the age of the stand at harvest rotation age. Regeneration in a particular stand is obtained during a short period at or near the time that a stand has reached the desired age or size for regeneration and is harvested. Clearcut, shelterwood, or seed tree cutting methods produce even-aged stands.

Forest land: Land at least 10 percent occupied by forest trees of any size or formerly having had such tree cover and not currently developed for non-forest use. Lands developed for non-forest use include areas for crops, improved pasture, residential, or administrative areas, improved roads of any width, and adjoining road clearing and powerline clearing of any width.

Goal: A concise statement that describes a desired condition to be achieved sometime in the future. It is normally expressed in broad, general terms and is timeless in that it has no specific date by which it is to be completed. Goal statements form the principal basis from which objectives are developed.

Goods and services: The various outputs, including on-site uses, produced from forest and rangeland resources.

Integrated pest management: A process for selecting strategies to regulate forest pests in which all aspects of a pest-host system are studied and weighed. The information considered in selecting appropriate strategies includes the impact of the unregulated pest population on various resources values, alternative regulatory tactics and strategies, and benefit/cost estimates for these alternative strategies. Regulatory strategies are based on sound silvicultural practices and ecology of the pest-host system and consist of a combination of tactics such as timber stand improvement plus selective use of pesticides. A basic principle in the choice of strategy is that it be ecologically compatible or acceptable.

Long-term sustained-yield timber capacity: The highest uniform wood yield from lands being managed for timber production that may be sustained under a specified management intensity consistent with multiple-use objectives.

Management concern: An issue, problem, or a condition which constrains the range of management practices identified by the Forest Service in the planning process.

Management direction: A statement of multiple-use and other goals and objectives, the associated management prescriptions, and standards and guidelines for attaining them.

Management intensity: A management practice or combination of management practices and associated costs designed to obtain different levels of goods and services.

Management practice: A specific activity, measure, course of action, or treatment.

Management prescription: Management practices and intensity selected and scheduled for application on a specific area to attain multiple-use and other goals and objectives.

Multiple use: The management of all the various renewable surface resources of the National Forest System so that they are utilized in the combination that will best meet the needs of the American people; making the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; that some lands will be used for less than all of the resources; and harmonious and coordinated management of the various resources, each with the other, without impairment of the productivity of the land, with consideration being given to the relative values of the various resources, and not necessarily the combination of uses that will give the greatest dollar return or the greatest unit output.

Net public benefits: An expression used to signify the overall long- term value to the nation of all outputs and positive effects (benefits) less all associated inputs and negative effects (costs) whether they can be quantitatively valued or not. Net public benefits are measured by both quantitative and qualitative criteria rather than a single measure or index. The maximization of net public benefits to be derived from management of units of the National Forest System is consistent with the principles of multiple use and sustained yield.

Objective: A concise, time-specific statement of measurable planned results that respond to pre-established goals. An objective forms the basis for further planning to define the precise steps to be taken and the resources to be used in achieving identified goals.

Planning area: The area of the National Forest System covered by a regional guide or forest plan.

Planning period: One decade. The time interval within the planning horizon that is used to show incremental changes in yields, costs, effects, and benefits.

Planning horizon: The overall time period considered in the planning process that spans all activities covered in the analysis or plan and all future conditions and effects of proposed actions which would influence the planning decisions.

Present net value: The difference between the discounted value (benefits) of all outputs to which monetary values or established market prices are assigned and the total discounted costs of managing the planning area.

Public issue: A subject or question of widespread public interest relating to management of the National Forest System.

Real dollar value: A monetary value which compensates for the effects of inflation.

Receipt shares: The portion of receipts derived from Forest Service resource management that is distributed to State and county governments, such as the Forest Service 25 percent fund payments.

Responsible line officer: The Forest Service employee who has the authority to select and/or carry out a specific planning action.

Sale schedule: The quantity of timber planned for sale by time period from an area of suitable land covered by a forest plan. The first period, usually a decade, of the selected sale schedule provides the

allowable sale quantity. Future periods are shown to establish that long-term sustained yield will be achieved and maintained.

Silvicultural system: A management process whereby forests are tended, harvested, and replaced, resulting in a forest of distinctive form. Systems are classified according to the method of carrying out the fellings that remove the mature crop and provide for regeneration and according to the type of forest thereby produced.

Suitability: The appropriateness of applying certain resource management practices to a particular area of land, as determined by an analysis of the economic and environmental consequences and the alternative uses foregone. A unit of land may be suitable for a variety of individual or combined management practices.

Sustained-yield of products and services: The achievement and maintenance in perpetuity of a high-level annual or regular periodic output of the various renewable resources of the National Forest System without impairment of the productivity of the land.

Timber production: The purposeful growing, tending, harvesting, and regeneration of regulated crops of trees to be cut into logs, bolts, or other round sections for industrial or consumer use. For purposes of this subpart, the term timber production does not include production of fuelwood.

Uneven-aged management: The application of a combination of actions needed to simultaneously maintain continuous high-forest cover, recurring regeneration of desirable species, and the orderly growth and development of trees through a range of diameter or age classes to provide a sustained yield of forest products. Cutting is usually regulated by specifying the number or proportion of trees of particular sizes to retain within each area, thereby maintaining a planned distribution of size classes. Cutting methods that develop and maintain uneven-aged stands are single-tree selection and group selection.

Sec. 219.4 Planning levels.

(a) General guideline. Planning requires a continuous flow of information and management direction among the three Forest Service administrative levels: national, regional, and forest. Management direction shall:

(1) Include requirements for analysis to determine programs that maximize net public benefits, consistent with locally derived information about production capabilities;

(2) Reflect production capabilities, conditions and circumstances observed at all levels; and

(3) Become increasingly specific as planning progresses from the national to the forest level. In this structure, regional planning is a principal process for conveying management direction from the national level to the forest level and for conveying information from forest level to the national level. The planning process is essentially iterative in that the information from the forest level flows up to the national level where in turn information in the RPA Program flows back to the forest level.

(b) Planning levels and relationships--(1) National. The Chief of the Forest Service shall develop the Renewable Resources Assessment and Program (hereafter, ``RPA Assessment and RPA Program'') according to sections 3 and 4 of the RPA.

(i) RPA Assessment. The RPA Assessment shall include analysis of present and anticipated uses, demand for, and supply of the renewable resources of forest, range, and other associated lands with consideration of, and an emphasis on, pertinent supply, demand, and price relationship trends; an inventory of present and potential renewable resources and an evaluation of opportunities for improving their yield of tangible and intangible goods and services, together with estimates of investment costs and direct and indirect returns to the Federal Government; a description of Forest Service programs and responsibilities in research, cooperative programs, and management of the National Forest System; and analysis of important policy issues and consideration of laws, regulations, and other factors expected to influence and affect significantly the use, ownership, and management of forest, range, and other associated lands. The RPA Assessment shall be based on the future capabilities of forest and rangelands and shall include information generated during the regional, forest, and other planning processes.

(ii) RPA Program. The RPA Program shall consider the costs of supply and the relative values of both market and nonmarket outputs. The alternatives considered shall include national renewable resource goals and quantified objectives for resource outputs and other benefits and shall be designed to represent a range of expenditure levels sufficient to demonstrate full opportunities for management. A portion of each national objective developed in the RPA Program shall be distributed to each region and be incorporated into each regional guide. Resource objectives shall be tentatively selected for each forest planning area. In formulating the objectives for each region and forest planning area, local supply capabilities and market conditions will be considered.

(2) Regional. Each Regional Forester shall develop a regional guide. Regional guides shall establish regional standards and guidelines as required by Sec. 219.9(a). Consistent with resource capabilities, regional guides shall reflect goals and objectives of the RPA Program. For planning purposes, the regional guides shall display tentative resource objectives for each Forest from the RPA Program. Regional guides shall also provide for general coordination of National Forest System, State and Private Forestry (S&PF), and Research programs. The Chief shall approve the regional guide. The Regional Forester may request adjustment of assigned regional objectives. Any adjustment shall require the approval of the Chief, Forest Service.

(3) Forest. Each Forest Supervisor shall develop a forest plan for administrative units of the National Forest System. One forest plan may be prepared for all lands for which a Forest Supervisor has responsibility; or separate forest plans may be prepared for each National Forest, or combination of National Forests, within the jurisdiction of a single Forest Supervisor. A single forest plan may be prepared for the entire Tongass National Forest. These forest plans shall constitute the land and resource management plans as required under sections 6 and 13 of the RPA. A range of resource objectives shall be formulated as alternatives and evaluated, including at least one alternative which responds to and incorporates the tentative RPA Program resource objectives displayed in the regional guide. Based on this evaluation, the Forest Supervisor shall recommend objectives for incorporation into the forest plan to the Regional Forester. The Regional Forester shall approve the forest plan. This approval may incorporate adjustment of the tentative RPA Program resource objectives displayed in the regional guide.

Sec. 219.5 Interdisciplinary approach.

(a) A team representing several disciplines shall be used for regional and forest planning to insure coordinated planning of the various resources. Through interactions among its members, the team shall integrate knowledge of the physical, biological, economic and social sciences, and the environmental design arts in the planning process. The team shall consider problems collectively, rather than separating them along disciplinary lines. Team functions include, but are not limited to--

(1) Assessing the problems and resource use and development opportunities associated with providing goods and services;

(2) Obtaining the public's views about possible decisions;

(3) Implementing the planning coordination activities within the Forest Service and with local, State and other Federal agencies;

(4) Developing a broad range of alternatives which identify the benefits and costs of land and resource management according to the planning process described in this subpart.

(5) Developing the land and resource management plan and associated environmental impact statement required pursuant to the planning process;

(6) Presenting to the responsible line officer an integrated perspective on land and resource management planning; and

(7) Establishing the standards and requirements by which planning and management activities will be monitored and evaluated.

(b) In appointing team members, the responsible line officer shall determine and consider the qualifications of each team member on the basis of the complexity of the issues and concerns to be addressed through the plan. The team shall collectively represent diverse specialized areas of professional and technical knowledge applicable to the planning area, and the team members shall have recognized relevant expertise and experience in professional, investigative, scientific, or other responsible work in specialty areas which they collectively represent. The team may consist of whatever combination of Forest Service staff and other Federal government personnel is necessary to achieve an interdisciplinary approach. The team is encouraged to consult other persons when required specialized knowledge does not exist within the team itself. In addition to technical knowledge in one or more resource specialties, members should possess other attributes which enhance the interdisciplinary process. As a minimum, these attributes should include--

(1) An ability to solve complex problems;

(2) Skills in communication and group interaction;

(3) Basic understanding of land and natural resource planning concepts, processes, and analysis techniques; and

(4) The ability to conceptualize planning problems and feasible solutions.

Sec. 219.6 Public participation.

(a) Because the land and resource management planning process determines how the lands of the National Forest System are to be managed, the public is encouraged to participate throughout the planning process. The intent of public participation is to--

(1) Broaden the information base upon which land and resource management planning decisions are made;

(2) Ensure that the Forest Service understands the needs, concerns, and values of the public;

(3) Inform the public of Forest Service land and resource planning activities; and

(4) Provide the public with an understanding of Forest Service programs and proposed actions.

(b) Public participation in the preparation of environmental impact statements for planning begins with the publication of a notice of intent in the Federal Register. Public involvement in the preparation of draft and final environmental impact statements shall conform to the requirements of the National Environmental Policy Act and associated implementing regulations and Forest Service Manual and Handbook guidance (hereafter, ``NEPA procedures''). Public comments shall be analyzed according to NEPA procedures.

(c) Public participation activities, as deemed appropriate by the responsible line officer, shall be used early and often throughout the development of plans. Formal public participation activities will begin with a notice to the news media and other sources which includes, as appropriate, the following information:

(1) A description of the proposed planning action;

(2) A description and map of the geographic area affected;

(3) The issues expected to be discussed;

(4) The kind, extent, and method(s) of public participation to be used;

(5) The times, dates, and locations scheduled or anticipated, for public meetings;

(6) The name, title, address, and telephone number of the Forest Service official who may be contacted for further information; and

(7) The location and availability of documents relevant to planning process.

(d) Public participation activities should be appropriate to the area and people involved. Means of notification should be appropriate to the level of planning. Public participation activities may include, but are not limited to, requests for written comments, meetings, conferences, seminars, workshops, tours, and similar events designed to foster public review and comment. The Forest Service shall state the objectives of each participation activity to assure that the public understands what type of information is needed and how this information relates to the planning process.

(e) Public comments shall be considered individually and by type of group and organization to determine common areas of concern and geographic distribution. The result of this analysis should be evaluated to determine the variety and intensity of viewpoints about ongoing and proposed planning and management standards and guidelines.

(f) All scheduled public participation activities shall be documented by a summary of the principal issues discussed, comments made, and a register of participants.

(g) At least 30 days' public notice shall be given for public participation activities associated with the development of regional guides and forest plans. Any notice requesting written comments on regional planning shall allow at least 60 calendar days for response. A similar request on forest planning shall allow at least 30 calendar days for response. Draft regional guides and forest plans and environmental impact statements shall be available for public comment for a least 3 months. See also Secs. 219.8(c) and 219.10(b).

(h) The responsible line officer shall attend, or provide for adequate representation at, public participation activities.

(i) Copies of approved guides and plans shall be available for public review as follows:

(1) The RPA Assessment and the RPA Program shall be available at national headquarters, The Northeastern Area State and Private Forestry Office, and all Regional offices, Research Stations, Forest Supervisors' offices, and District Rangers' offices;

(2) The regional guides shall be available at national headquarters, the issuing regional office and regional offices of contiguous regions, each Forest Supervisor's office of forests within and contiguous to the issuing region, and each District Ranger's office in the region;

(3) The forest plan shall be available at the regional office for the forest, the Forest Supervisor's office, Forest Supervisors' offices contiguous to the forest, District Rangers' offices within the forest, and at least one additional location, to be determined by the Forest Supervisor, which shall offer convenient access to the public.

These documents may be made available at other locations convenient to the public.

(j) Documents considered in the development of plans shall be available at the office where the plans were developed.

(k) Forest planning activities should be coordinated to the extent practicable with owners of lands that are intermingled with, or dependent for access upon, National Forest System lands. The results of this coordination shall be included in the environmental impact statement for the plan as part of the review required in Sec. 219.7(c). The responsible line officer may individually notify these owners of forest planning activities where it is determined that notice provided for the general public is not likely to reach the affected landowners. (l) Fees for reproducing requested documents shall be charged according to the Secretary of Agriculture's Fee Schedule (7 CFR part 1, subpart A, appendix A).

Sec. 219.7 Coordination with other public planning efforts.

(a) The responsible line officer shall coordinate regional and forest planning with the equivalent and related planning efforts of other Federal agencies, State and local governments, and Indian tribes.

(b) The responsible line officer shall give notice of the preparation of a land and resource management plan, along with a general schedule of anticipated planning actions, to the official or agency so designated by the affected State (including the Commonwealth of Puerto Rico). The same notice shall be mailed to all Tribal or Alaska Native leaders whose tribal lands or treaty rights are expected to be impacted and to the heads of units of government for the counties involved. These notices shall be issued simultaneously with the publication of the notice of intent to prepare an environmental impact statement required by NEPA procedures (40 CFR 1501.7).

(c) The responsible line officer shall review the planning and land use policies of other Federal agencies, State and local governments, and Indian tribes. The results of this review shall be displayed in the environmental impact statement for the plan (40 CFR 1502.16(c), 1506.2). The review shall include--

(1) Consideration of the objectives of other Federal, State and local governments, and Indians tribes, as expressed in their plans and policies;

(2) An assessment of the interrelated impacts of these plans and policies;

(3) A determination of how each Forest Service plan should deal with the impacts identified; and,

(4) Where conflicts with Forest Service planning are identified, consideration of alternatives for their resolution.

(d) In developing land and resource management plans, the responsible line officer shall meet with the designated State official (or designee) and representatives of other Federal agencies, local governments, and Indian tribal governments at the beginning of the planning process to develop procedures for coordination. As a minimum, such conferences shall also be held after public issues and management concerns have been identified and prior to recommending the preferred alternative. Such conferences may be held in conjunction with other public participation activities, if the opportunity for government officials to participate in the planning process is not thereby reduced.

(e) In developing the forest plan, the responsible line officer shall seek input from other Federal, State and local governments, and universities to help resolve management concerns in the planning process and to identify areas where additional research is needed. This input should be included in the discussion of the research needs of the designated forest planning area.

(f) A program of monitoring and evaluation shall be conducted that includes consideration of the effects of National Forest management on land, resources, and communities adjacent to or near the National Forest being planned and the effects upon National Forest management of activities on nearby lands managed by other Federal or other government agencies or under the jurisdiction of local governments.

[47 FR 43037, Sept. 30, 1982, as amended at 48 FR 29122, June 24, 1983]

Sec. 219.8 Regional planning procedure.

(a) Regional guide. A regional guide shall be developed for each administratively designated Forest Service region. Regional guides shall reflect general coordination of National Forest System, State and Private Forestry, and Research programs. Regional guides shall provide standards and guidelines for addressing major issues and management concerns which need to be considered at the regional level to facilitate forest planning. Public participation and coordination, the current RPA Program and Assessment, and the existing forest and resource plans shall be used as sources of information in meeting this requirement. Data and information requirements established nationally will be followed in structuring and maintaining required data.

(b) Responsibilities--(1) Chief, Forest Service. The Chief shall establish agency-wide policy for regional planning and approve all regional guides.

(2) Regional forester. The Regional Forester has overall responsibility for preparing and implementing the regional guide and for preparing the environmental impact statement for proposed standards and guidelines in the regional guide. The Regional Forester appoints and supervises the interdisciplinary team.

(3) Interdisciplinary team. The team, under the direction of the Regional Forester, implements the public participation and coordination activities required by Sec. 219.6 and Sec. 219.7. The team shall continue to function even though membership may change and shall monitor and evaluate planning results and recommend amendments. The team shall develop a regional guide in compliance with NEPA procedures.

(c) Public review. A draft and final environmental impact statement shall be prepared for the proposed standards and guidelines in the regional guide according to NEPA procedures. To the extent feasible, a single process shall be used to meet planning and NEPA requirements. The draft statement shall identify a preferred alternative. Beginning on the date of publication of the notice of availability of the draft environmental impact statement in the Federal Register, the statement and the proposed guide shall be available for public comment for at least 3 months at convenient locations in the vicinity of the lands covered by the guide. During this period, and in accordance with the provisions in Sec. 219.6, the Regional Forester or his designee shall publicize and hold public participation activities as deemed necessary for adequate public input.

(d) Guide approval. The Chief shall review the proposed guide and the final environmental impact statement and either approve or disapprove the guide.

(1) Approval. The Chief shall prepare a concise public record of decision which documents approval and accompanies the regional guide and the final environmental impact statement. The record or decision shall be prepared according to NEPA procedures (40 CFR 1505.2). The approved regional guide shall not become effective until at least 30 days after publication of the notice of availability of the final environmental impact statement in the Federal Register.

(2) Disapproval. The Chief shall return the regional guide and final environmental impact statement to the Regional Forester with a written statement of the reasons for disapproval. The Chief may also

specify a course of action to be undertaken by the Regional Forester in order to remedy deficiencies, errors, or omissions in the regional guide or environmental impact statement.

(e) Public appeal of approval decisions. The provisions of 36 CFR part 211, subpart B apply to any administrative appeal of the Chief's decision to approve a regional guide. Decisions to disapprove a guide and other decisions made during the regional planning process prior to issuance of a record of decision approving the guide are not subject to administrative appeal.

(f) Amendment. The Regional Forester may amend the regional guide. The Regional Forester shall determine whether the proposed amendment would result in a significant change in the guide. If the change resulting from the proposed amendment is determined to be significant, the Regional Forester shall follow the same procedure for amendment as that required for development and approval of a regional guide. If the change resulting from the amendment is determined not to be significant for the purposes of the planning process, the Regional Forester may implement the amendment following appropriate public notification and satisfactory completion of NEPA procedures.

(g) Planning records. The Regional Forester shall develop and maintain planning records that document decisions and activities that result from the process of developing a regional guide and the accomplishment of legal and administrative planning requirements. These records include at least the draft environmental impact statement, final environmental impact statement, regional guide, record of decision, a work plan to guide and manage planning, the procedures used in completing each action, and the results of these actions.

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Sec. 219.9 Regional guide content.

(a) The regional guide shall contain--

(1) A summary of the analysis of the regional management situation, including a brief description of the existing management situation and the major issues and management concerns which need to be addressed at the regional level to facilitate forest planning;

(2) A description of management direction including programs, goals, and objectives;

(3) A display of tentative resource objectives for each forest planning area from the current RPA Program;

(4) New or significantly changed regional management standards and guidelines necessary to address major regional issues and management concerns identified in paragraph (a)(1) of this section;

(5) Specific standards and guidelines for the following--

(i) Prescribing appropriate harvest cutting methods to be used within the region according to geographic areas, forest types, or other suitable classifications;

(ii) Establishing the maximum size, dispersal, and size variation of tree openings created by even-aged management, and the state of vegetation that will be reached before a cut-over area is no longer

considered an opening, using factors enumerated in Sec. 219.27(d);

(iii) Defining the management intensities and utilization standards to be used in determining harvest levels for the region;

(iv) Designating transportation corridors and associated direction for forest planning, such as management requirements for corridors, transmission lines, pipelines, and water canals. (The designation of corridors is not to preclude the granting of separate rights-of-way over, upon, under, or through the Federal lands where the authorized line officer determines that confinement to a corridor is not appropriate.) (43 U.S.C. 1763, 36 CFR 251.56); and

(v) Identifying in forest plans significant current and potential air pollution emissions from management activities and from other sources in and around the forest planning area and identifying measures needed to coordinate air quality control with appropriate air quality regulation agencies.

(6) A description of the monitoring and evaluation necessary to determine and report achievements and effects of the guide.

(7) A description of measures to achieve coordination of National Forest System, State and Private Forestry, and Research programs.

(b) Existing regional standards and guidelines that are part of the Forest Service directives system, and that are not altered or superseded in the course of complying with Sec. 219.9(a)(4), shall remain in effect.

Sec. 219.10 Forest planning--general procedure.

(a) Responsibilities--(1) Regional Forester. The Regional Forester shall establish regional policy for forest planning and approve all forest plans in the region.

(2) Forest Supervisor. The Forest Supervisor has overall responsibility for the preparation and implementation of the forest plan and preparation of the environmental impact statement for the forest plan. The Forest Supervisor appoints and supervises the interdisciplinary team.

(3) Interdisciplinary team. The team, under the direction of the Forest Supervisor, implements the public participation and coordination activities required by Sec. 219.6 and Sec. 219.7. The team shall continue to function even though membership may change and shall monitor and evaluate planning results and recommend revisions and amendments. The interdisciplinary team shall develop a forest plan and environmental impact statement using the process established in Sec. 219.12 and paragraph (b) below.

(b) Public review of plan and environmental impact statement. A draft and final environmental impact statement shall be prepared for the proposed plan according to NEPA procedures. The draft environmental impact statement shall identify a preferred alternative. To comply with 16 U.S.C. 1604 (d), the draft environmental impact statement and proposed plan shall be available for public comment for at least 3 months, at convenient locations in the vicinity of the lands covered by the plan, beginning on the date of the publication of the notice of availability in the Federal Register. During this period, and

in accordance with the provisions in Sec. 219.6, the Forest Supervisor shall publicize and hold public participation activities as deemed necessary to obtain adequate public input.

(c) Plan approval. The Regional Forester shall review the proposed plan and the final environmental impact statement and either approve or disapprove the plan.

(1) Approval. The Regional Forester shall prepare a concise public record of decision which documents approval and accompanies the plan and final environmental impact statement. The record of decision shall be prepared according to NEPA procedures (40 CFR 1505.2). The approved plan shall not become effective until at least 30 days after publication of the notice of availability of the final environmental impact statement in the Federal Register, to comply with 16 U.S.C. 1604(d) and 1604(j). (2) Disapproval. The Regional Forester shall return the plan and final environmental impact statement to the Forest Supervisor with a written statement of the reasons for disapproval. The Regional Forester may also specify a course of action to be undertaken by the Forest Supervisor in order to remedy deficiencies, errors, or omissions in the plan or environmental impact statement.

(d) Public appeal of approval decision. The provisions of 36 CFR part 211, subpart B apply to any administrative appeal of the Regional Forester's decision to approve a forest plan. Decisions to disapprove a plan and other decisions made during the forest planning process prior to the issuance of a record of decision approving the plan are not subject to administrative appeal.

(e) Plan implementation. As soon as practicable after approval of the plan, the Forest Supervisor shall ensure that, subject to valid existing rights, all outstanding and future permits, contracts, cooperative agreements, and other instruments for occupancy and use of affected lands are consistent with the plan. Subsequent administrative activities affecting such lands, including budget proposals, shall be based on the plan. The Forest Supervisor may change proposed implementation schedules to reflect differences between proposed annual budgets and appropriated funds. Such scheduled changes shall be considered an amendment to the forest plan, but shall not be considered a significant amendment, or require the preparation of an environmental impact statement, unless the changes significantly alter the long-term relationship between levels of multiple-use goods and services projected under planned budget proposals as compared to those projected under actual appropriations.

(f) Amendment. The Forest Supervisor may amend the forest plan. Based on an analysis of the objectives, guidelines, and other contents of the forest plan, the Forest Supervisor shall determine whether a proposed amendment would result in a significant change in the plan. If the change resulting from the proposed amendment is determined to be significant, the Forest Supervisor shall follow the same procedure as that required for development and approval of a forest plan. If the change resulting from the amendment is determined not to be significant for the purposes of the planning process, the Forest Supervisor may implement the amendment following appropriate public notification and satisfactory completion of NEPA procedures.

(g) Revision. A forest plan shall ordinarily be revised on a 10-year cycle or at least every 15 years. It also may be revised whenever the Forest Supervisor determines that conditions or demands in the area covered by the plan have changed significantly or when changes in RPA policies, goals, or objectives would have a significant effect on forest level programs. In the monitoring and evaluation process, the interdisciplinary team may recommend a revision of the forest plan at any time. Revisions are not effective until considered and approved in accordance with the requirements for the development and approval of a forest plan. The Forest Supervisor shall review the conditions on the land covered by the plan at least every 5 years to determine whether conditions or demands of the public have change significantly.

(h) Planning records. The Forest Supervisor and interdisciplinary team shall develop and maintain planning records that document the decisions and activities that result from the process of developing a forest plan. Records that support analytical conclusions made and alternatives considered by the team and approved by the Forest Supervisor throughout the planning process shall be maintained. Such supporting records provide the basis for the development of the forest plan and associated documents required by NEPA procedures.

Sec. 219.11 Forest plan content.

The forest plan shall contain the following:

(a) A brief summary of the analysis of the management situation, including demand and supply conditions for resource commodities and services, production potentials, and use and development opportunities;

(b) Forest multiple-use goals and objectives that include a description of the desired future condition of the forest or grassland and an identification of the quantities of goods and services that are expected to be produced or provided during the RPA planning periods;

(c) Multiple-use prescriptions and associated standards and guidelines for each management area including proposed and probable management practices such as the planned timber sale program; and

(d) Monitoring and evaluation requirements that will provide a basis for a periodic determination and evaluation of the effects of management practices.

Sec. 219.12 Forest planning--process.

(a) General requirements. The preparation, revision, or significant amendment of a forest plan shall comply with the requirements established in this section. The planning process includes at least those actions set forth in paragraphs (b) through (k) of the section. Some actions may occur simultaneously, and it may be necessary to repeat an action as additional information becomes available. The environmental impact statement for each forest plan shall be prepared according to NEPA procedures. To the extent feasible, a single process shall be used to meet planning and NEPA requirements.

(b) Identification of purpose and need. The interdisciplinary team shall identify and evaluate public issues, management concerns, and resource use and development opportunities, including those identified throughout the planning process during public participation activities and coordination with other Federal agencies, State and local governments, and Indian tribes. The Forest Supervisor shall determine the major public issues, management concerns, and resource use and development opportunities to be addressed in the planning process.

(c) Planning criteria. Criteria shall be prepared to guide the planning process. Criteria apply to collection

and use of inventory data and information, analysis of the management situation, and the design, formulation, and evaluation of alternatives. Criteria designed to achieve the objective of maximizing net public benefits shall be included. Specific criteria may be derived from--

(1) Laws, Executive Orders, regulations, and agency policy as set forth in the Forest Service Manual;

(2) Goals and objectives in the RPA Program and regional guides;

(3) Recommendations and assumptions developed from public issues, management concerns, and resource use and development opportunities;

(4) The plans and programs of other Federal agencies, State and local governments, and Indian tribes;

(5) Ecological, technical, and economic factors; and

(6) The resource integration and management requirements in Secs. 219.13 through 219.27.

(d) Inventory data and information collection. Each Forest Supervisor shall obtain and keep current inventory data appropriate for planning and managing the resources under his or her administrative jurisdiction. The Supervisor will assure that the interdisciplinary team has access to the best available data. This may require that special inventories or studies be prepared. The interdisciplinary team shall collect, assemble, and use data, maps, graphic material, and explanatory aids, of a kind, character, and quality, and to the detail appropriate for the management decisions to be made. Data and information needs may vary as planning problems develop from identification of public issues, management concerns, and resource use and development opportunities. Data shall be stored for ready retrieval and comparison and periodically shall be evaluated for accuracy and effectiveness. The interdisciplinary team will use common data definitions and standards established by the Chief of the Forest Service to assure uniformity of information between all planning levels. As information is recorded, it shall be applied in any subsequent planning process. Information developed according to common data definitions and standards shall be used in the preparation of the 1990, and subsequent RPA Assessments and RPA Programs.

(e) Analysis of the management situation. The analysis of the management situation is a determination of the ability of the planning area covered by the forest plan to supply goods and services in response to society's demands. The primary purpose of this analysis is to provide a basis for formulating a broad range of reasonable alternatives. The analysis may examine the capability of the unit to supply outputs both with and without legal and other requirements. As a minimum, the analysis of the management situation shall include the following:

(1) Benchmark analyses to define the range within which alternatives can be constructed. Budgets shall not be a constraint. The following benchmark analyses shall be consistent with the minimum applicable management requirements of Sec. 219.27 and shall define at least--

(i) The minimum level of management which would be needed to maintain and protect the unit as part of the National Forest System together with associated costs and benefits;

(ii) The maximum physical and biological production potentials of significant individual goods and services together with associated costs and benefits;

(iii) Monetary benchmarks which estimate the maximum present net value of those resources having an

established market value or an assigned value;

(A) For forest planning areas with major resource outputs that have an established market price, monetary benchmarks shall include an estimate of the mix of resource uses, combined with a schedule of outputs and costs, which will maximize the present net value of those major outputs that have an established market price;

(B) For all forest planning areas, monetary benchmarks shall include an estimate of the mix of resource uses, combined with a schedule of outputs and costs, which will maximize the present net value of those major outputs that have an established market price or are assigned a monetary value;

(C) For forest planning areas with a significant timber resource, estimates for paragraphs (e)(1)(iii) (A) and (B) of this section shall be developed both with and without meeting the requirements for compliance with a base sale schedule of timber harvest, as described in Sec. 219.16(a)(1), and with and without scheduling the harvest of even- aged stands generally at or beyond culmination of mean annual increment of growth, as described in Sec. 219.16(a)(2)(iii).

(D) Estimates for paragraphs (e)(1)(iii) (A) and (B) of this section shall be developed both with and without other constraints when needed to address major public issues, management concerns, or resource opportunities identified during the planning process.

(2) The current level of goods and services provided by the unit and the most likely amount of goods and services expected to be provided in the future if current management direction continues; this will be the same analysis as that required by Sec. 219.12(f)(5).

(3) Projections of demand using best available techniques, with both price and nonprice information. To the extent practical, demand will be assessed as price-quantity relationships.

(4) A determination of the potential to resolve public issues and management concerns.

(5) Based on consideration of data and findings developed in paragraphs (e)(1)-(4), a determination of the need to establish or change management direction.

(f) Formulation of alternatives. The interdisciplinary team shall formulate a broad range of reasonable alternatives according to NEPA procedures. The primary goal in formulating alternatives, besides complying with NEPA procedures, is to provide an adequate basis for identifying the alternative that comes nearest to maximizing net public benefits, consistent with the resource integration and management requirements of Secs. 219.13 through 219.27.

(1) Alternatives shall be distributed between the minimum resource potential and the maximum resource potential to reflect to the extent practicable the full range of major commodity and environmental resource uses and values that could be produced from the forest. Alternatives shall reflect a range of resource outputs and expenditure levels.

(2) Alternatives shall be formulated to facilitate analysis of opportunity costs and of resource use and environmental trade-offs among alternatives and between benchmarks and alternatives.

(3) Alternatives shall be formulated to facilitate evaluation of the effects on present net value, benefits, and costs of achieving various outputs and values that are not assigned monetary values, but that are provided at specified levels.

(4) Alternatives shall provide different ways to address and respond to the major public issues, management concerns, and resource opportunities identified during the planning process.

(5) Reasonable alternatives which may require a change in existing law or policy to implement shall be formulated if necessary to address a major public issue, management concern, or resource opportunity identified during the planning process (40 CFR 1501.7, 1502.14(c)).

(6) At least one alternative shall be developed which responds to and incorporates the RPA Program tentative resource objectives for each forest displayed in the regional guide.

(7) At least one alternative shall reflect the current level of goods and services provided by the unit and the most likely amount of goods and services expected to be provided in the future if current management direction continues. Pursuant to NEPA procedures, this alternative shall be deemed the ``no action'' alternative.

(8) Each alternative shall represent to the extent practicable the most cost efficient combination of management prescriptions examined that can meet the objectives established in the alternative.

(9) Each alternative shall state at least--

(i) The condition and uses that will result from long-term application of the alternative;

(ii) The goods and services to be produced, the timing and flow of these resource outputs together with associated costs and benefits;

(iii) Resource management standards and guidelines; and

(iv) The purposes of the management direction proposed.

(g) Estimated effects of alternatives. The physical, biological, economic, and social effects of implementing each alternative considered in detail shall be estimated and compared according to NEPA procedures. These effects include those described in NEPA procedures (40 CFR 1502.14 and 1502.16) and at least the following:

(1) The expected outputs for the planning periods, including appropriate marketable goods and services, as well as nonmarket items, such as recreation and wilderness use, wildlife and fish, protection and enhancement of soil, water, and air, and preservation of aesthetic and cultural resource values;

(2) The relationship of expected outputs to the RPA Program tentative resource objectives for the forest displayed in the current regional guide;

(3) Direct and indirect benefits and costs, analyzed in sufficient detail to estimate--

(i) the expected real-dollar costs (discounted when appropriate), including investment, administrative, and operating costs of the agency and all other public and private costs required to manage the forest up to the point where the outputs are valued and the environmental consequences are realized;

(ii) the expected real-dollar value (discounted when appropriate) of all outputs attributable to each alternative to the extent that monetary values can be assigned to nonmarket goods and services, using quantitative and qualitative criteria when monetary values may not reasonably be assigned;

(iii) the economic effects of alternatives, including impacts on present net value, total receipts to the Federal Government, direct benefits to users that are not measured in receipts to the Federal Government, receipt shares to State and local governments, income, and employment in affected areas; and

(iv) the monetary opportunity costs (changes in present net value) associated with those management standards and resource outputs in each alternative that were not assigned monetary values but were provided at specified levels, compared with the maximum present net value benchmarks developed in Sec. 219.12(e)(1)(iii).

(4) The significant resource tradeoffs and opportunity costs associated with achieving alternative resource objectives.

(h) Evaluation of alternatives: Using planning criteria, the interdisciplinary team shall evaluate the significant physical, biological, economic, and social effects of each management alternative that is considered in detail. The evaluation shall include a comparative analysis of the aggregate effects of the management alternatives and shall compare present net value, social and economic impacts, outputs of goods and services, and overall protection and enhancement of environmental resources.

(i) Preferred alternative recommendation. The Forest Supervisor shall review the interdisciplinary team's evaluation and shall recommend to the Regional Forester a preferred alternative to be identified in the draft environmental impact statement and displayed as the proposed plan.

(j) Plan approval. The Regional Forester shall review the proposed plan and final environmental impact statement and either approve or disapprove the plan in accordance with Sec. 219.10(c). The record of decision for approval of a plan shall include, in addition to the requirements of NEPA procedures (40 CFR 1505.2), a summarized comparison of the selected alternative with:

(1) Any other alternative considered which is environmentally preferable to the selected alternative; and

(2) Any other alternative considered which comes nearer to maximizing present net value.

(k) Monitoring and evaluation. At intervals established in the plan, implementation shall be evaluated on a sample basis to determine how well objectives have been met and how closely management standards and guidelines have been applied. Based upon this evaluation, the interdisciplinary team shall recommend to the Forest Supervisor such changes in management direction, revisions, or amendments to the forest plan as are deemed necessary. Monitoring requirements identified in the forest plan shall provide for--

(1) A quantitative estimate of performance comparing outputs and services with those projected by the forest plan;

(2) Documentation of the measured prescriptions and effects, including significant changes in productivity of the land; and

(3) Documentation of costs associated with carrying out the planned management prescriptions as compared with costs estimated in the forest plan.

(4) A description of the following monitoring activities:

(i) The actions, effects, or resources to be measured, and the frequency of measurements;

(ii) Expected precision and reliability of the monitoring process; and

(iii) The time when evaluation will be reported.

(5) A determination of compliance with the following standards:

(i) Lands are adequately restocked as specified in the forest plan;

(ii) Lands identified as not suited for timber production are examined at least every 10 years to determine if they have become suited; and that, if determined suited, such lands are returned to timber production;

(iii) Maximum size limits for harvest areas are evaluated to determine whether such size limits should be continued; and

(iv) Destructive insects and disease organisms do not increase to potentially damaging levels following management activities.

Sec. 219.13 Forest planning--resource integration requirements.

The minimum requirements for integrating individual forest resource planning into the forest plan are established in Secs. 219.14 through 219.26 of this subpart. For the purposes of meeting the requirements of Sec. 219.12(c), additional planning criteria may be found in the guidelines for managing specific resources set forth in the Forest Service Manual and Handbooks.

Sec. 219.14 Timber resource land suitability.

During the forest planning process, lands which are not suited for timber production shall be identified in accordance with the criteria in paragraphs (a) through (d) of this section.

(a) During the analysis of the management situation, data on all National Forest System lands within the planning area shall be reviewed, and those lands within any one of the categories described in paragraphs (a) (1) through (4) of this section shall be identified as not suited for timber production--

(1) The land is not forest land as defined in Sec. 219.3.

(2) Technology is not available to ensure timber production from the land without irreversible resource damage to soils productivity, or watershed conditions.

(3) There is not reasonable assurance that such lands can be adequately restocked as provided in Sec.

219.27(c)(3).

(4) The land has been withdrawn from timber production by an Act of Congress, the Secretary of Agriculture or the Chief of the Forest Service.

(b) Forest lands other than those that have been identified as not suited for timber production in paragraph (a) of this section shall be further reviewed and assessed prior to formulation of alternatives to determine the costs and benefits for a range of management intensities for timber production. For the purpose of analysis, the planning area shall be stratified into categories of land with similar management costs and returns. The stratification should consider appropriate factors that influence the costs and returns such as physical and biological conditions of the site and transportation requirements. This analysis shall identify the management intensity for timber production for each category of land which results in the largest excess of discounted benefits less discounted costs and shall compare the direct costs of growing and harvesting trees, including capital expenditures required for timber production, to the anticipated receipts to the government, in accordance with Sec. 219.12 and paragraphs (b)(1) through (b)(3) of this section.

(1) Direct benefits are expressed as expected gross receipts to the government. Such receipts shall be based upon expected stumpage prices and payments-in-kind from timber harvest considering future supply and demand situation for timber and upon timber production goals of the regional guide.

(2) Direct costs include the anticipated investments, maintenance, operating, management, and planning costs attributable to timber production activities, including mitigation measures necessitated by the impacts of timber production.

(3) In addition to long-term yield, the financial analysis must consider costs and returns of managing the existing timber inventory.

(c) During formulation and evaluation of each alternative as required in Sec. 219.12 (f) and (g), combinations of resource management prescriptions shall be defined to meet management objectives for the various multiple uses including outdoor recreation, timber, watershed, range, wildlife and fish, and wilderness. The formulation and evaluation of each alternative shall consider the costs and benefits of alternative management intensities for timber production as identified pursuant to paragraph (b) of this section in accordance with Sec. 219.12(f). Lands shall be tentatively identified as not appropriate for timber production to meet objectives of the alternative being considered if--

(1) Based upon a consideration of multiple-use objectives for the alternative, the land is proposed for resource uses that preclude timber production, such as wilderness;

(2) Other management objectives for the alternative limit timber production activities to the point where management requirements set forth in Sec. 219.27 cannot be met; or

(3) The lands are not cost-efficient, over the planning horizon, in meeting forest objectives, which include timber production.

(d) Lands identified as not suited for timber production in paragraph (a) of this section and lands tentatively identified as not appropriate for timber production in paragraph (c) of this section shall be designated as not suited for timber production in the preferred alternative. Designation in the plan of lands not suited for timber production shall be reviewed at least every 10 years. Such lands may be reviewed and redesignated as suited for timber production due to changed conditions at any time,

according to the criteria in paragraphs (a) and

(c) of this section, and according to the procedures for amendment or revision of the forest plan in Sec. 219.10 (f) and (g).

Sec. 219.15 Vegetation management practices.

When vegetation is altered by management, the methods, timing, and intensity of the practices determine the level of benefits that can be obtained from the affected resources. The vegetation management practices chosen for each vegetation type and circumstance shall be defined in the forest plan with applicable standards and guidelines and the reasons for the choices. Where more than one vegetation management practice will be used in a vegetation type, the conditions under which each will be used shall be based upon thorough reviews of technical and scientific literature and practical experience, with appropriate evaluation of this knowledge for relevance to the specific vegetation and site conditions. On National Forest System land, the vegetation management practice chosen shall comply with the management requirements in Sec. 219.27(b).

Sec. 219.16 Timber resource sale schedule.

In a forest plan, the selected forest management alternative includes a sale schedule which provides the allowable sale quantity. The sale schedule of each alternative, including those which depart from base sale schedules, shall be formulated in compliance with Sec. 219.12(f) and paragraphs (a) and (b) of this section.

(a) Alternatives shall be formulated that include determinations of the quantity of the timber that may be sold during each decade. These quantity determinations shall be based on the principle of sustained yield and shall meet the management requirements in Sec. 219.27. For each alternative, the determination shall include a calculation of the long-term sustained-yield capacity and the base sale schedule and, when appropriate, a calculation of timber sale alternatives that may depart from the base sale schedule as provided in paragraphs (a)(1) through (a)(3) of this section.

(1) For the base sale schedules, the planned sale for any future decade shall be equal to, or greater than, the planned sale for the preceding decade, provided that the planned sale is not greater than the long-term sustained-yield capacity consistent with the management objectives of the alternative.

(2) The determinations of the appropriate long-term sustained-yield capacities, base sale schedules, and departure alternatives to the base sale schedules shall be made on the basis of the guidelines which follow:

(i) For the long-term sustained-yield capacities and the base sale schedules, assume intensities of management and degree of timber utilization consistent with the goals, assumptions, and requirements contained in, or used in, the preparation of the current RPA Program and regional guide. For the base

sale schedule, the management and utilization assumptions shall reflect the projected changes in practices for the four decades contained in, or used in, the preparation of the current RPA Program and regional guide. Beyond the fourth decade, the assumptions shall reflect those projected for the fourth decade of the current RPA Program, unless there is a basis for a different assumption;

(ii) For alternatives with sale schedules which depart from the corresponding base sale schedule, assume an appropriate management intensity;

(iii) In accordance with the established standards, assure that all even-aged stands scheduled to be harvested during the planning period will generally have reached the culmination of mean annual increment of growth. Mean annual increment shall be based on expected growth, according to management intensities and utilization standards assumed in paragraphs (a)(2) (i) and (ii) of this section and on forest type and site quality. Mean annual increment shall be expressed in cubic measure. Alternatives which incorporate exceptions to these standards shall be evaluated if it is reasonable to expect that overall multiple use objectives would be better attained. Alternatives which incorporate exceptions to these standards are permitted for the use of sound silvicultural practices, such as thinning or other stand improvement measures; for salvage or sanitation harvesting of timber stands which are substantially damaged by fire, windthrow, or other catastrophe, or which are in imminent danger from insect or disease attack; for cutting for experimental and research purposes; or for removing particular species of trees, after consideration has been given to the multiple uses of the area being planned and after completion of the public participation process applicable to the preparation of a forest plan; and

(iv) Each sale schedule shall provide for a forest structure that will enable perpetual timber harvest which meets the principle of sustained-yield and multiple-use objectives of the alternative.

(3) Alternatives with sale schedules which depart from the principles of paragraph (a)(1) of this section and which will lead to better attaining the overall objectives of multiple-use management shall be evaluated when any of the following conditions are indicated:

(i) None of the other alternatives considered provides a sale schedule that achieves the assigned goals of the RPA Program as provided in Sec. 219.4(b);

(ii) High mortality losses from any cause can be significantly reduced or prevented or forest age-class distribution can be improved, thereby facilitating future sustained-yield management; or

(iii) Implementation of the corresponding base sale schedule would cause a substantial adverse impact upon a community in the economic area in which the forest is located.

(iv) It is reasonable to expect that overall multiple-use objectives would otherwise be better attained.

(b) The sale schedule of the management alternative selected in accordance with Sec. 219.12 provides the allowable sale quantity for the first plan period.

Sec. 219.17 Evaluation of roadless areas.

(a) Unless otherwise provided by law, roadless areas within the National Forest System shall be

evaluated and considered for recommendation as potential wilderness areas during the forest planning process, as provided in paragraphs (a) (1) and (2) of this section.

(1) During analysis of the management situation, the following areas shall be subject to evaluation:

(i) Roadless areas including those previously inventoried in the second roadless area review and evaluation (RARE II), in a unit plan, or in a forest plan, which remain essentially roadless and undeveloped, and which have not yet been designated as wilderness or for nowilderness uses by law. In addition, other essentially roadless areas may be subject to evaluation at the discretion of the Forest Supervisor.

(ii) Areas contiguous to existing wilderness, primitive areas, or administratively proposed wildernesses, regardless of which agency has jurisdiction for the wilderness or proposed wilderness;

(iii) Areas that are contiguous to roadless and undeveloped areas in other Federal ownership that have identified wilderness potential; and

(iv) Areas designated by Congress for wilderness study, administrative proposals pending before Congress, and other legislative proposals pending which have been endorsed by the President.

(2) For each area subject to evaluation under paragraph (a)(1) of this section, the determination of the significant resource issues, which in turn affect the detail and scope of evaluation required by the Forest Service, shall be developed with public participation. As a minimum, the evaluation shall include consideration of:

(i) The values of the area as wilderness;

(ii) The values foregone and effects on management of adjacent lands as a consequence of wilderness designation;

(iii) Feasibility of management as wilderness, in respect to size, nonconforming use, land ownership patterns, and existing contractual agreements or statutory rights;

(iv) Proximity to other designated wilderness and relative contribution to the National Wilderness Preservation System; and

(v) The anticipated long-term changes in plant and animal species diversity, including the diversity of natural plant and animal communities of the forest planning area and the effects of such changes on the values for which wilderness areas were created.

[47 FR 43037, Sept. 30, 1982, as amended at 48 FR 40383, Sept. 7, 1983]

Sec. 219.18 Wilderness management.

Forest planning shall provide direction for the management of designated wilderness and primitive areas in accordance with the provisions of 36 CFR part 293. In particular, plans shall--

(a) Provide for limiting and distributing visitor use of specific areas in accord with periodic estimates of the maximum levels of use that allow natural processes to operate freely and that do not impair the values for which wilderness areas were created; and

(b) Evaluate the extent to which wildfire, insect, and disease control measures may be desirable for protection of either the wilderness or adjacent areas and provide for such measures when appropriate.

Sec. 219.19 Fish and wildlife resource.

Fish and wildlife habitat shall be managed to maintain viable populations of existing native and desired non-native vertebrate species in the planning area. For planning purposes, a viable population shall be regarded as one which has the estimated numbers and distribution of reproductive individuals to insure its continued existence is well distributed in the planning area. In order to insure that viable populations will be maintained, habitat must be provided to support, at least, a minimum number of reproductive individuals and that habitat must be well distributed so that those individuals can interact with others in the planning area.

(a) Each alternative shall establish objectives for the maintenance and improvement of habitat for management indicator species selected under paragraph (g)(1) of this section, to the degree consistent with overall multiple use objectives of the alternative. To meet this goal, management planning for the fish and wildlife resource shall meet the requirements set forth in paragraphs (a)(1) through (a)(7) of this section.

(1) In order to estimate the effects of each alternative on fish and wildlife populations, certain vertebrate and/or invertebrate species present in the area shall be identified and selected as management indicator species and the reasons for their selection will be stated. These species shall be selected because their population changes are believed to indicate the effects of management activities. In the selection of management indicator species, the following categories shall be represented where appropriate: Endangered and threatened plant and animal species identified on State and Federal lists for the planning area; species with special habitat needs that may be influenced significantly by planned management programs; species commonly hunted, fished, or trapped; non-game species of special interest; and additional plant or animal species selected because their population changes are believed to indicate the effects of management activities on other species of selected major biological communities or on water quality. On the basis of available scientific information, the interdisciplinary team shall estimate the effects of changes in vegetation type, timber age classes, community composition, rotation age, and year-long suitability of habitat related to mobility of management indicator species. Where appropriate, measures to mitigate adverse effects shall be prescribed.

(2) Planning alternatives shall be stated and evaluated in terms of both amount and quality of habitat and of animal population trends of the management indicator species.

(3) Biologists from State fish and wildlife agencies and other Federal agencies shall be consulted in order to coordinate planning for fish and wildlife, including opportunities for the reintroduction of

extirpated species.

(4) Access and dispersal problems of hunting, fishing, and other visitor uses shall be considered.

(5) The effects of pest and fire management on fish and wildlife populations shall be considered.

(6) Population trends of the management indicator species will be monitored and relationships to habitat changes determined. This monitoring will be done in cooperation with State fish and wildlife agencies, to the extent practicable.

(7) Habitat determined to be critical for threatened and endangered species shall be identified, and measures shall be prescribed to prevent the destruction or adverse modification of such habitat. Objectives shall be determined for threatened and endangered species that shall provide for, where possible, their removal from listing as threatened and endangered species through appropriate conservation measures, including the designation of special areas to meet the protection and management needs of such species.

Sec. 219.20 Grazing resource.

In forest planning, the suitability and potential capability of National Forest System lands for producing forage for grazing animals and for providing habitat for management indicator species shall be determined as provided in paragraphs (a) and (b) of this section. Lands so identified shall be managed in accordance with direction established in forest plans.

(a) Lands suitable for grazing and browsing shall be identified and their condition and trend shall be determined. The present and potential supply of forage for livestock, wild and free-roaming horses and burros, and the capability of these lands to produce suitable food and cover for selected wildlife species shall be estimated. The use of forage by grazing and browsing animals will be estimated. Lands in less than satisfactory condition shall be identified and appropriate action planned for their restoration.

(b) Alternative range management prescriptions shall consider grazing systems and the facilities necessary to implement them; land treatment and vegetation manipulation practices; and evaluation of pest problems; possible conflict or beneficial interactions among livestock, wild free-roaming horses and burros and wild animal populations, and methods of regulating these; direction for rehabilitation of ranges in unsatisfactory condition; and comparative cost efficiency of the prescriptions.

Sec. 219.21 Recreation resource.

To the degree consistent with needs and demands for all major resources, a broad spectrum of forest and rangeland related outdoor recreation opportunities shall be provided for in each alternative. Planning activities to achieve this shall be in accordance with national and regional direction and procedural requirements of paragraphs (a) through (g) of this section.

(a) Forest planning shall identify--

(1) The physical and biological characteristics that make land suitable for recreation opportunities;

(2) The recreational preferences of user groups and the settings needed to provide quality recreation opportunities; and

(3) Recreation opportunities on the National Forest System lands.

(b) The supply of developed recreational facilities in the area of National Forest influence shall be appraised for adequacy to meet present and future demands.

(c) Planning alternatives shall include consideration of establishment of physical facilities, regulation of use, and recreation opportunities responsive to current and anticipated user demands.

(d) In formulation and analysis of alternatives as specified in Sec. 219.12 (f) and (g), interactions among recreation opportunities and other multiple uses shall be examined. This examination shall consider the impacts of the proposed recreation activities on other uses and values and the impacts of other uses and activities associated with them on recreation opportunities, activities, and quality of experience.

(e) Formulation and evaluation of alternatives under paragraphs (c) and (d) of this section shall be coordinated to the extent feasible with present and proposed recreation activities of local and State land use or outdoor recreation plans, particularly the State Comprehensive Outdoor Recreation Plan, and recreation opportunities already present and available on other public and private lands, with the aim of reducing duplication in meeting recreation demands.

(f) The visual resource shall be inventoried and evaluated as an integrated part of evaluating alternatives in the forest planning process, addressing both the landscape's visual attractiveness and the public's visual expectation. Management prescriptions for definitive land areas of the forest shall include visual quality objectives.

(g) Off-road vehicle use shall be planned and implemented to protect land and other resources, promote public safety, and minimize conflicts with other uses of the National Forest System lands. Forest planning shall evaluate the potential effects of vehicle use off roads and, on the basis of the requirements of 36 CFR part 295 of this chapter, classify areas and trails of National Forest System lands as to whether or not off-road vehicle use may be permitted.

Sec. 219.22 Mineral resource.

Mineral exploration and development in the planning area shall be considered in the management of renewable resources. The following shall be recognized to the extent practicable in forest planning:

(a) Active mines within the area of land covered by the forest plan;

(b) Outstanding or reserved mineral rights;

(c) The probable occurrence of various minerals, including locatable, leasable, and common variety;

(d) The potential for future mineral development and potential need for withdrawal of areas from development;

(e) Access requirements for mineral exploration and development; and

(f) The probable effect of renewable resource prescriptions and management direction on mineral resources and activities, including exploration and development.

Sec. 219.23 Water and soil resource.

Forest planning shall provide for--

(a) General estimates of current water uses, both consumptive and non-consumptive, including instream flow requirements within the area of land covered by the forest plan;

(b) Identification of significant existing impoundments, transmission facilities, wells, and other man-made developments on the area of land covered by the forest plan;

(c) Estimation of the probable occurrence of various levels of water volumes, including extreme events which would have a major impact on the planning area;

(d) Compliance with requirements of the Clean Water Act, the Safe Drinking Water Act, and all substantive and procedural requirements of Federal, State, and local governmental bodies with respect to the provision of public water systems and the disposal of waste water;

(e) Evaluation of existing or potential watershed conditions that will influence soil productivity, water yield, water pollution, or hazardous events; and

(f) Adoption of measures, as directed in applicable Executive orders, to minimize risk of flood loss, to restore and preserve floodplain values, and to protect wetlands.

Sec. 219.24 Cultural and historic resources.

Forest planning shall provide for the identification, protection, interpretation, and management of significant cultural resources on National Forest System lands. Planning of the resource shall be governed by the requirements of Federal laws pertaining to historic preservation, and guided by paragraphs (a)(1) through (a)(3) of this section.

(a) Forest planning shall--

(1) Provide an overview of known data relevant to history, ethnography, and prehistory of the area under consideration, including known cultural resource sites;

(2) Identify areas requiring more intensive inventory;

(3) Provide for evaluation and identification of appropriate sites for the National Register of Historic Places;

(4) Provide for establishing measures for the protection of significant cultural resources from vandalism and other human depredation, and natural destruction;

(5) Identify the need for maintenance of historic sites on, or eligible for inclusion in, the National Register of Historic Places; and

(6) Identify opportunities for interpretation of cultural resources for the education and enjoyment of the American public.

(b) In the formulation and analysis of alternatives, interactions among cultural resources and other multiple uses shall be examined. This examination shall consider impacts of the management of cultural resources on other uses and activities and impacts of other uses and activities on cultural resource management.

(c) Formulation and evaluation of alternatives shall be coordinated to the extent feasible with the State cultural resource plan and planning activities of the State Historic Preservation Office and State Archaeologist and with other State and Federal agencies.

Sec. 219.25 Research natural areas.

Forest planning shall provide for the establishment of Research Natural Areas (RNA's). Planning shall make provision for the identification of examples of important forest, shrubland, grassland, alpine, aquatic, and geologic types that have special or unique characteristics of scientific interest and importance and that are needed to complete the national network of RNA's. Biotic, aquatic, and geologic types needed for the network shall be identified using a list provided by the Chief of the Forest Service. Authority to establish RNA's is delegated to the Chief at 7 CFR 2.60(a) and 36 CFR 251.23. Recommendations for establishment of areas shall be made to the Chief through the planning process.

Sec. 219.26 Diversity.

Forest planning shall provide for diversity of plant and animal communities and tree species consistent with the overall multiple-use objectives of the planning area. Such diversity shall be considered throughout the planning process. Inventories shall include quantitative data making possible the evaluation of diversity in terms of its prior and present condition. For each planning alternative, the interdisciplinary team shall consider how diversity will be affected by various mixes of resource outputs and uses, including proposed management practices. (Refer to Sec. 219.27(g).)

Sec. 219.27 Management requirements.

The minimum specific management requirements to be met in accomplishing goals and objectives for the National Forest System are set forth in this section. These requirements guide the development, analysis, approval, implementation, monitoring and evaluation of forest plans.

(a) Resource protection. All management prescriptions shall--

(1) Conserve soil and water resources and not allow significant or permanent impairment of the productivity of the land;

(2) Consistent with the relative resource values involved, minimize serious or long-lasting hazards from flood, wind, wildfire, erosion, or other natural physical forces unless these are specifically excepted, as in wilderness;

(3) Consistent with the relative resource values involved, prevent or reduce serious, long lasting hazards and damage from pest organisms, utilizing principles of integrated pest management. Under this approach all aspects of a pest-host system should be weighed to determine situation-specific prescriptions which may utilize a combination of techniques including, as appropriate, natural controls, harvesting, use of resistant species, maintenance of diversity, removal of damaged trees, and judicious use of pesticides. The basic principle in the choice of strategy is that, in the long term, it be ecologically acceptable and compatible with the forest ecosystem and the multiple use objectives of the plan;

(4) Protect streams, streambanks, shorelines, lakes, wetlands, and other bodies of water as provided under paragraphs (d) and (e) of this section;

(5) Provide for and maintain diversity of plant and animal communities to meet overall multiple-use objectives, as provided in paragraph (g) of this section;

(6) Provide for adequate fish and wildlife habitat to maintain viable populations of existing native vertebrate species and provide that habitat for species chosen under Sec. 219.19 is maintained and improved to the degree consistent with multiple-use objectives established in the plan;

(7) Be assessed prior to project implementation for potential physical, biological, aesthetic, cultural, engineering, and economic impacts and for consistency with multiple uses planned for the general area;

(8) Include measures for preventing the destruction or adverse modification of critical habitat for threatened and endangered species;

(9) Provide that existing significant transportation and utility corridors and other significant right-of-ways that are capable and likely to be needed to accommodate the facility or use from an additional compatible right-of-way be designated as a right-of-way corridor. Subsequent right-of-way grants will, to the extent practicable, and as determined by the responsible line officer, use designated corridors;

(10) Ensure that any roads constructed through contracts, permits, or leases are designed according to standards appropriate to the planned uses, considering safety, cost of transportation, and effects upon

lands and resources;

(11) Provide that all roads are planned and designed to re-establish vegetative cover on the disturbed area within a reasonable period of time, not to exceed 10 years after the termination of a contract, lease or permit, unless the road is determined necessary as a permanent addition to the National Forest Transportation System; and

(12) Be consistent with maintaining air quality at a level that is adequate for the protection and use of National Forest System resources and that meets or exceeds applicable Federal, State and/or local standards or regulations.

(b) Vegetative manipulation. Management prescriptions that involve vegetative manipulation of tree cover for any purpose shall--

(1) Be best suited to the multiple-use goals established for the area with potential environmental, biological, cultural resource, aesthetic, engineering, and economic impacts, as stated in the regional guides and forest plans, being considered in this determination;

(2) Assure that lands can be adequately restocked as provided in paragraph (c)(3) of this section, except where permanent openings are created for wildlife habitat improvement, vistas, recreation uses and similar practices;

(3) Not be chosen primarily because they will give the greatest dollar return or the greatest output of timber, although these factors shall be considered;

(4) Be chosen after considering potential effects on residual trees and adjacent stands;

(5) Avoid permanent impairment of site productivity and ensure conservation of soil and water resources;

(6) Provide the desired effects on water quantity and quality, wildlife and fish habitat, regeneration of desired tree species, forage production, recreation uses, aesthetic values, and other resource yields; and

(7) Be practical in terms of transportation and harvesting requirements, and total costs of preparation, logging, and administration.

(c) Silvicultural practices. The following management requirements apply to timber harvest and cultural treatments:

(1) No timber harvesting shall occur on lands classified as not suited for timber production pursuant to Sec. 219.14 except for salvage sales, sales necessary to protect other multiple-use values or activities that meet other objectives on such lands if the forest plan establishes that such actions are appropriate. These lands shall continue to be treated for reforestation purposes if necessary to achieve the multiple-use objectives of the plan.

(2) The selected sale schedule provides the allowable sale quantity for the first planning period. Within the planning period, the volume of timber to be sold in any one year may exceed the average annual allowable sale quantity so long as the total amount sold for the planning period does not exceed the allowable sale quantity. Nothing in this paragraph prohibits salvage or sanitation harvesting of timber stands which are substantially damaged by fire, windthrow, or other catastrophe, or which are in

imminent danger of insect or disease attack and where such harvests are consistent with silvicultural and environmental standards. Such timber may either substitute for timber that would otherwise be sold under the plan or, if not feasible, be sold over and above the planned volume.

(3) When trees are cut to achieve timber production objectives, the cuttings shall be made in such a way as to assure that the technology and knowledge exists to adequately restock the lands within 5 years after final harvest. Research and experience shall be the basis for determining whether the harvest and regeneration practices planned can be expected to result in adequate restocking. Adequate restocking means that the cut area will contain the minimum number, size, distribution, and species composition of regeneration as specified in regional silvicultural guides for each forest type. Five years after final harvest means 5 years after clearcutting, 5 years after final overstory removal in shelterwood cutting, 5 years after the seed tree removal cut in seed tree cutting, or 5 years after selection cutting.

(4) Cultural treatments such as thinning, weeding, and other partial cutting may be included in the forest plan where they are intended to increase the rate of growth of remaining trees, favor commercially valuable tree species, favor species or age classes which are most valuable for wildlife, or achieve other multiple-use objectives.

(5) Harvest levels based on intensified management practices shall be decreased no later than the end of each planning period if such practices cannot be completed substantially as planned.

(6) Timber harvest cuts designed to regenerate an even-aged stand of timber shall be carried out in a manner consistent with the protection of soil, watershed, fish and wildlife, recreation, and aesthetic resources, and the regeneration of the timber resource.

(7) Timber harvest and other silvicultural treatments shall be used to prevent potentially damaging population increases of forest pest organisms. Silvicultural treatments shall not be applied where such treatments would make stands susceptible to pest-caused damage levels inconsistent with management objectives.

(d) Even-aged management. When openings are created in the forest by the application of even-aged silviculture, the following management requirements apply:

(1) Openings shall be located to achieve the desired combination of multiple-use objectives. The blocks or strips cut shall be shaped and blended with the natural terrain, to the extent practicable, to achieve aesthetic, wildlife habitat, or other objectives established in the plan. Regional guides shall provide guidance on dispersion of openings in relation to topography, climate, geography, local land use patterns, forest types or other factors. As a minimum, openings in forest stands are no longer considered openings once a new forest is established. Forest plans may set forth variations to this minimum based on site- specific requirements for achieving multiple-use objectives. Regional guides shall provide guidance for determining variations to this minimum in the forest plan, based on requirements for watershed, wildlife habitat, scenery or other resource protection needs, or other factors.

(2) Individual cut blocks, patches, or strips shall conform to the maximum size limits for areas to be cut in one harvest operation established by the regional guide according to geographic areas and forest types. This limit may be less than, but will not exceed, 60 acres for the Douglas-fir forest type of California, Oregon, and Washington; 80 acres for the southern yellow pine types of Alabama, Arkansas, Georgia, Florida, Louisiana, Mississippi, North Carolina, South Carolina, Oklahoma, and Texas; 100 acres for the hemlock-sitka spruce forest type of coastal Alaska; and 40 acres for all other forest types except as provided in paragraphs (d)(2)(i) through (iii) of this section:

(i) Cut openings larger than those specified may be permitted where larger units will produce a more desirable combination of net public benefits. Such exceptions shall be provided for in regional guides. The following factors shall be considered in evaluating harvest cuts of various sizes and shapes to determine size limits by geographic areas and forest types: Topography; relationship of units to other natural or artificial openings and proximity of units; coordination and consistency with adjacent forests and regions; effect on water quality and quantity; visual absorption capability; effect on wildlife and fish habitat; regeneration requirements for desirable tree species based upon the latest research findings; transportation and harvesting system requirements; environmental and forest pest hazards to regeneration, residual trees, and surrounding stands; and the relative total costs of preparation and administration, transportation requirements, harvesting, site preparation, planting, stocking control, and future stand tending of harvest cuts of various sizes and shapes. Specification for exceptions shall include the particular conditions under which the larger size is permitted and shall set a new maximum size permitted under those conditions.

(ii) Size limits exceeding those established in paragraphs (d)(2) and (d)(2)(i) of this section are permitted on an individual timber sale basis after 60 days' public notice and review by the Regional Forester.

(iii) The established limit shall not apply to the size of areas harvested as a result of natural catastrophic condition such as fire, insect and disease attack, or windstorm.

(e) Riparian areas. Special attention shall be given to land and vegetation for approximately 100 feet from the edges of all perennial streams, lakes, and other bodies of water. This area shall correspond to at least the recognizable area dominated by the riparian vegetation. No management practices causing detrimental changes in water temperature or chemical composition, blockages of water courses, or deposits of sediment shall be permitted within these areas which seriously and adversely affect water conditions or fish habitat. Topography, vegetation type, soil, climatic conditions, management objectives, and other factors shall be considered in determining what management practices may be performed within these areas or the constraints to be placed upon their performance.

(f) Soil and water. Conservation of soil and water resources involves the analysis, protection, enhancement, treatment, and evaluation of soil and water resources and their responses under management and shall be guided by instructions in official technical handbooks. These handbooks must show specific ways to avoid or mitigate damage, and maintain or enhance productivity on specific sites. These handbooks may be regional in scope or, where feasible, specific to physiographic or climatic provinces.

(g) Diversity. Management prescriptions, where appropriate and to the extent practicable, shall preserve and enhance the diversity of plant and animal communities, including endemic and desirable naturalized plant and animal species, so that it is at least as great as that which would be expected in a natural forest and the diversity of tree species similar to that existing in the planning area. Reductions in diversity of plant and animal communities and tree species from that which would be expected in a natural forest, or from that similar to the existing diversity in the planning area, may be prescribed only where needed to meet overall multiple-use objectives. Planned type conversion shall be justified by an analysis showing biological, economic, social, and environmental design consequences, and the relation of such conversions to the process of natural change.

Sec. 219.28 Research.

(a) Research needs for management of the National Forest System shall be identified during planning and periodically reviewed during evaluation of implemented plans. Particular attention should be given to research needs identified during the monitoring and evaluation described in Sec. 219.12(k). These identified needs shall be included in formulating overall research programs and plans which involve private as well as public forest and rangelands.

(b) Research needed to support or improve management of the National Forest System shall be established and budgeted at the research station and national levels. Priorities for this portion of the Forest Service Research Program shall be based upon the information gathered at all planning levels of the National Forest System.

(c) An annual report shall be prepared at the national level with assistance from Regions and Stations which shall include, but not be limited to, a description of the status of major research programs which address National Forest System needs for Research, significant findings, and how this information is to be or has recently been applied.

Sec. 219.29 Transition period.

(a) Until a forest planning area of the National Forest System is managed under a forest plan developed pursuant to this subpart and approved by the Regional Forester, the land may continue to be managed under existing land use and resource plans. As soon as practicable, existing plans shall be amended or revised to incorporate standards and guidelines in this subpart. Pending approval of a forest plan, existing plans may be amended or revised to include management requirements not inconsistent with the provisions of the RPA and these regulations.

(b) Requirements of amendments to this subpart shall be incorporated in forest plans and regional guides through the ongoing planning process. Planning process steps already completed need not be repeated.

(1) If, prior to the effective date of an amendment to this subpart, a forest plan either has been approved in final form or released in draft form for public review, the plan need not be modified to incorporate requirements of such amendment, until the next scheduled revision of the forest plan;

(2) If, prior to the effective date of an amendment to this subpart, a regional guide either has been approved in final form or released in draft form for public review, the guide need not be modified to incorporate the requirements of such amendment, until a significant amendment to the guide is made for reasons other than incorporating requirements of amendments to this subpart.

(c) A forest plan may become effective prior to the development and approval of its related regional guide, provided that the forest plan is reviewed upon regional guide approval, and if necessary, amended to comply with regional management direction. If such an amendment is significant, it shall be accomplished pursuant to the requirements for the development of a forest plan as set forth in this subpart.

(d) As a result of the eruption of Mount St. Helens, a land management plan for the Mount St. Helens

area shall be prepared substantially in accordance with the following procedures:

(1) Notwithstanding any other provisions in this subpart, the area included in the Mount St. Helens land management plan will not be subject to planning activities for the first generation Gifford Pinchot National Forest Plan unless the Regional Forester for the Pacific Northwest Region determines that additional planning activities are desirable.

(2) Lands which were inventoried as roadless and designated for nonwilderness uses in the Roadless Area Review and Evaluation (RARE II) shall be managed for uses other than wilderness. Except for a small part of the Mount Margaret roadless area (B 6071), the Mount St. Helens land management plan shall not consider wilderness designation for these lands.

(3) Lands which were inventoried as roadless and designated as further planning in the Roadless Area Review and Evaluation (RARE II) shall be evaluated in the Mount St. Helens land management plan and shall be managed in accordance with that plan.

USDA FOREST SERVICE REGION 5

Forest Plan Revision

DRAFT Collaboration Handbook v1.3

Note: This handbook will be developed throughout 2012 as an iterative product to support Forest Plan revision

The mission of the USDA Forest Service is to sustain the health, diversity, and productivity of the Nation's forests and grasslands to meet the needs of present and future generations.

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1. Collaboration Handbook Purpose & Overview

Over the next several years, almost all National Forests in Region 5 of the USDA Forest Service will initiate and complete Forest Plan revisions. Region 5 has developed this handbook to promote a clear and consistent process across the region for public engagement in each Forest's assessment and revision process. The handbook is intended for **Forest Service staff and the interested public** to create shared expectations and understanding with regards to collaboration and public engagement during plan revision.

Region 5 will **develop this handbook over the course of 2012** and continue to refine it as plan revisions move forward building on innovation and best practices from throughout Region 5. The handbook is an **iterative product**, meant to evolve and develop as plans move forward through the revision process.

The handbook first outlines the major steps in the assessment and revision process, which will be applied in each Forest. The next section focuses on existing legal frameworks and sideboards. The following section outlines how a forest analysis of both stakeholder issues and forest capacity can lay the foundation to develop a Collaboration and Communication Plan in the public engagement section. The final sections provide a handy reference of best practices for engagement efforts, and describe how the existing Forest Service wiki website will be used to streamline and improve access to the plan revision materials for each Forest.

2. Public Participation at a Glance

A. How to Get Involved

Individuals and organizations have a range of options and can decide how involved they would like to be during plan revision. Some opportunities are:

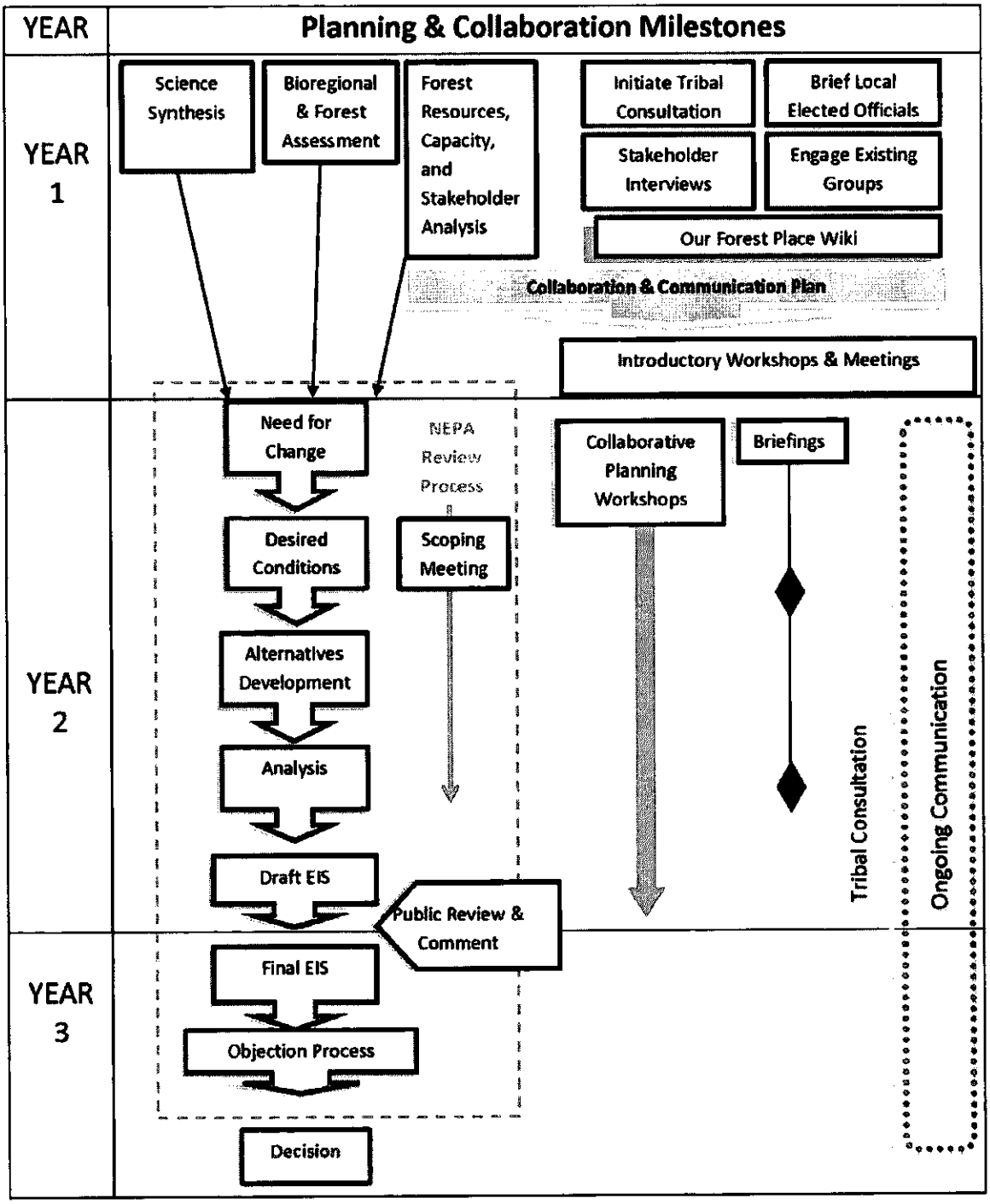
- Sign-on to the email list to receive updates and information
- Visit *Our Forest Place,* the online Forest Service Wiki to contribute ideas and deepen understanding about the issues
- Visit the National Forest web site to track progress and learn about your forest(s)
- Attend workshops and meetings on forest plan revision
- Attend the Sierra Cascades Dialog
- Participate in the environmental review by submitting a comment.
- Host a briefing update at your organization

B. Why this is Important

A Forest Plan guides a National Forest's future activities. Similar to a county's general plan, it identifies uses that may be possible in areas of the forest. The plan provides long range vision, goals and objectives. The forest then monitors to make sure it is moving toward the vision and achieving its goals and objectives. Although the plan does not detail specific projects, it sets the stage by providing guidelines to make decisions about future projects.

C. How National Forests will Use Input

The goal is to develop a Forest Plan that is responsive to the interests of the forest, agencies, and the public. Forest Plan revision will promote deliberations that are thoughtful and frank and include a diversity of perspectives and interests. All input will be considered and taken into account. The forest supervisor is the final decision maker on the Forest Plan.


YEAR
Planning & Collaboration Milestones
YEAR 1
Science Synthesis
Bioregional & Forest Assessment
Forest Resources, Capacity, and Stakeholder Analysis
Initiate Tribal Consultation
Brief Local Elected Officials
Stakeholder Interviews
Engage Existing Groups
Our Forest Place Wiki
Collaboration & Communication Plan
Introductory Workshops & Meetings
YEAR 2
Need for Change
NEPA Review Process
Collaborative Planning Workshops
Briefings
Desired Conditions
Scoping Meeting
Alternatives Development
Analysis
Draft EIS
Public Review & Comment
Tribal Consultation
Ongoing Communication
YEAR 3
Final EIS
Objection Process
Decision

3. Planning Products & Approximate Timeframes

Ultimately the revision process will generate a revised **Forest Plan** for each National Forest. Along the way, the revision process will generate a series of interim products that reflect input to date and identify subsequent planning direction.

With the exception of documents produced in the first year, these products correspond with both the National Environmental Policy Act and the National Forest Management Act, for example, desired conditions, plan alternatives, and a draft and final Environmental Impact Statement. The first year will incorporate five products being developed by Region 5: the **Science Synthesis**, which reviews the state of knowledge for a series of key scientific topics; the **Bioregional Assessment**, which reviews the status and trends for a series of resources that stretch across the Sierra-Cascades, in conjunction with three **Forest Assessments** to specify local trends and conditions. During the first year, each Forest that initiates the revision process will locally analyze its resources, staff, data, and budget that it has available to support the revision process, and the key issues that stakeholders identify for inclusion in the revision process. Each Forest's analysis will lay the foundation for public participation during Forest Plan development.

The diagram illustrates how planning milestones and products correspond with the NEPA review process, and corresponding opportunities for public engagement and collaboration.

A. Resource Categories for Bioregional and Forest Assessment

The assessment phase seeks to provide a clear understanding of what is known about the plan area in the context of the broader landscape. It will evaluate existing information at geographic scales relevant to understanding the area's ecological, economic, and social dimensions, and allow for integrating information from adjacent areas outside the Forest boundary. This information will allow for informed decision-making during the planning phase, including risks and vulnerabilities associated with long-term variability, events, and trends.

The assessment will identify the distinctive roles and contributions of the unit within the context of the broader landscape, considering the roles of the unit in providing multiple uses, including ecosystem services, from the National Forest System lands to the local area, region, and Nation. The unit's distinctive roles and contributions within the broader landscape are those for which the unit is best suited, considering the Agency mission, unique capabilities, and the resources and management of other lands in the vicinity (Proposed Planning Rule 36 CFR § 219.6 9 (b)).

1. County engagement: Evaluate existing county and state planning efforts, including planning documents, land use ordinances, Fire Safe Councils, and transportation
2. Other Tribal, Federal, State and Local Government: Federal (BLM, NPS, USFWS, etc), State (water, wildlife, Calfire 2010 Assessment, Parks, etc.), and Local Improvement Districts

3. Terrestrial ecosystems, aquatic ecosystems, and watersheds: lower westside hardwood forests, streams, wetlands, and meadows
4. Air, soil, and water resources and quality
5. System drivers, including dominant ecological processes, disturbance regimes, and stressors, such as natural succession, wildland fire, invasive species, noxious weeds, and climate change; and the ability of terrestrial and aquatic ecosystems on the plan area to adapt to change
6. Baseline assessment of carbon stocks
7. Threatened, endangered, proposed and candidate species, and potential species of conservation concern present in the plan area; Species of conservation concern (spotted owl, northern goshawk, pacific fisher, marten, wolverine, red fox, foothill yellow-legged frog, mountain yellow legged frog Yosemite toad, willow flycatcher, Modoc sucker, little kern golden trout, central valley winter run steelhead)
8. Social, cultural, and economic conditions
9. Benefits people obtain from the NFS planning area (ecosystem services)
10. Multiple uses and their contributions to local, regional, and national economies
11. Recreation Uses: settings, opportunity and uses, and scenic character
12. Renewable and nonrenewable energy and mineral resources
13. Infrastructure, such as recreational facilities and transportation and utility corridors
14. Areas of tribal importance
15. Cultural and historic resources and uses
16. Land status and ownership, use, and access patterns
17. Existing designated areas located in the plan area including wilderness and wild and scenic rivers and potential need and opportunity for additional designated areas.

B. Forest Plan Components

Forest Plans will be based on the bioregional and forest assessments. Plans are collaboratively developed and science-based. Plans provide a framework for integrated resource management and for guiding project decision-making. The Plan does not authorize projects or activities or commit the Forest Service to take action or regulate uses by the public. In other words, no site-specific decisions are expected to be made in a Forest Plan. Forest Plans will have the following components (Proposed Planning Rule 36 CFR § 219.7 (d)

Desired Conditions: A description of specific social, economic, and/or ecological characteristics of the plan area, or a portion of the plan area, that are described in terms specific enough to allow progress toward their achievement. Desired Conditions are what drive the plan. All management activities should be aimed at the achievement of the Desired Condition for those resources in the area where the project is located. Desired conditions can be thought of as goals that in part help define a collective vision for the National Forest in the future.

Objectives: An objective is a concise, measurable, and time-specific statement of a desired rate of progress toward a desired condition or conditions and should be based on reasonably foreseeable

budgets. Objectives along with the strategies used to accomplish them can be thought of as the tools we will use to reach the desired conditions. Objectives are mileposts along the road toward desired conditions.

Standards: These can be thought of as the rules the forest will operate within as the forest develops projects to accomplish objectives and move closer to the realization of desired conditions. These are mandatory constraints on project and activity decision-making.

Guidelines: These describe a constraint on project and activity decision-making that allows for departure from its terms, so long as the intent of the guideline is met. In other words guidelines are mandatory unless they are replaced by something that is equal to or better than the existing guideline.

Suitability of Lands: Specific lands within a plan area identified as suitable for various multiple uses or activities based on the desired conditions applicable to those lands. The plan also identifies lands within the plan area as not suitable for uses that are not compatible with desired conditions for those lands. Every plan must identify those lands that are not suitable for timber production (required by National Forest Management Act).

4. Legal Frameworks / Sideboards

A. Legal and Regulatory Requirements

The plan revision process will adhere to all applicable legal and regulatory requirements.

B. National Forest Management Act Proposed Planning Rule

The Forest Service anticipates finalizing the proposed rule in the Final Programmatic Environmental Impact Statement (PEIS) for the National Forest System Land Management Planning Rule. The proposed rule is grounded in science and public input and seeks to deliver strong protections for forests, water, and wildlife while supporting the economic vitality of rural communities. It requires opportunities for public participation and collaboration throughout all stages of the planning process; opportunities for consultation with federally recognized Indian Tribes and Alaska Native Corporations; and coordination with other public planning efforts with federally recognized Indian Tribes, Alaska Native Corporations, other Federal agencies, and State and local governments. The Washington Office will revise and issue new directives for public notice and comment that will provide further guidance in implementing a final rule. For specific rule language on public participation, see Proposed Planning Rule 36 CFR § 219.4.

http://www.fs.usda.gov/planningrule

C. Intersection with the National Environmental Policy Act (NEPA)

Revised Forest Plans must complete the NEPA review process. The NEPA process will begin with the identification of a **Need for Change** and **Desired Conditions**; these steps correspond with NEPA **Scoping**. The NEPA process will run in parallel with opportunities for public engagement and collaboration, beginning with the Assessment process (prior to NEPA), and continuing through the Need for Change, Desired Conditions, Alternatives Development, and Analysis. From the point when a new Draft Forest Plan is available, individuals will have the opportunity to participate in the formal comment period and the objection process. The Forest Supervisor issues the final Decision on the Forest Plan.

D. Tribal Consultation

As a federal agency, the Forest Service will meet all requirements to consult and collaborate with Native American Tribes. Many Native American Tribes have existing agreements with specific National Forests, and the agreements will form the basis for meaningful, ongoing in-person consultative discussions. For Native American Tribes without existing agreements, the Forest Service will conduct consultation pursuant to the USDA Forest Service Tribal Consultation Policies. The Forest Service will reach out to potentially affected Tribes on an ongoing basis throughout the revision process, and provide options for Tribal input and engagement. In addition to direct consultation, Tribes will be

encouraged to participate in open dialogues and other events to help other forest users understand tribal concerns and perspectives.

E. Federal Advisory Committee Act (FACA)

The USDA Forest Service Washington office established a national Federal Advisory Committee Act to provide input on implementation of the Proposed Planning Rule on a national scale. The Federal Advisory Committee Act was enacted in 1972 to ensure that advice by the various advisory committees formed over the years is objective and accessible to the public. The Act formalized a process for establishing, operating, overseeing, and terminating these advisory bodies.

A committee must meet three requirements in order to be subject to FACA:

- There must be a committee (i.e., more than one individual),
- The committee must formulate consensus advice, and
- The committee's advice must be utilized by a federal agency.

National Forests will not convene new advisory committees for the plan revision process. Instead, they will host meetings and events that are open to any interested members of the public, and they will engage existing forums and collaborative groups. Furthermore, while the Forests will seek public input on proposed revisions and supporting documents, the Forests will not seek consensus. FACA is triggered when a federal agency establishes a group and does so with the purpose of obtaining advice or recommendations; it does not apply if the agency establishes a group to seek information from individual participants (41 CFS 102-3.25, definition of advisory committee).

Link to FACA Easy button to be added

F. Collaborative Planning Workshops and Meeting Guidelines

Consistent with FACA described above, the Forest Service can hold workshops and meetings with interested individuals and organizations to seek input on Forest Plans. To be consistent with FACA and existing policy and legal requirements, the following guidelines apply to meetings and workshops.

- **Open all meetings to the public.**
- **Allow flexible participation.** Groups cannot have set membership.
- **Make all meeting notes, informational materials, and products publicly available.** Transparency is exceptionally important.
- **Seek information from individuals, not consensus from the group.** The Forest Service cannot ask for group consensus because it suggests the group is making a decision upon which the agency will act. The Forest Service can seek information from individuals about whether consensus exists among individual participants and why; this is not the same as seeking *group consensus.*
- **Allow public review and comment on all products.** Establish opportunity for interested parties to add information and offer suggestions.

- **Individuals from collaborative planning workshops can participate fully in the NEPA process.** Individuals who contribute during collaborative planning workshops can participate in the NEPA process, including submitting formal comments or challenge decisions. Participating in collaborative planning workshops does not limit anyone's activity during the NEPA process.

5. Analyze Stakeholders and Forest Capacity

This purpose of this element is to analyze stakeholder issues and expectations related to the planning process and balance those interests and expectations with Forest capacity (e.g., staffing, resources, and budget). This analysis will lay the foundation for the Collaboration & Communication Plan or engagement strategy.

A. Forests Identify Stakeholders

- Air Quality
- Business, Chambers of Commerce, Community Vitality and Local Economic Development
- Ecology and Wildlife
- Environmental
- Fire Safety and Community Protection
- Forestry
- Governmental: Native American Tribes, Federally Recognized and Non-Recognized; State, County, and Local and other Federal Agencies, including Land Management and Resource Agencies
- Industry (including Biomass Processing)
- Minorities
- Permitees (of cabins on public lands)
- Land Managers
- Landowners
- Local Community Residents
- Low-income Populations
- Recreation
- Scientists
- Urban Users
- Water Agencies
- Youth
- Other?

B. Conduct Stakeholder Interviews and Briefings

Stakeholder interviews are a formal process to track stakeholder concerns that will help craft the Collaboration and Communication Plan in the next section. Each National Forest, in consultation with the Regional Office team, will determine whether an **impartial third party** will conduct stakeholder interviews. The purpose of stakeholder interviews is to seek input on the structure of the planning process, including use of scientific information and to deepen understanding of stakeholder interests and likelihood of success. The benefit of a third party conducting the stakeholder analysis is that stakeholders can speak confidentially and also tend to be more forthcoming, providing insights to

analyze interests and concerns for shaping the Collaboration & Communication Plan. In addition, Forest leadership, the planner, and public affairs office will conduct briefings with key stakeholders to inform them about and solicit input on the planning process.

C. Forest Assess Capacity

1) **Staffing**
2) **Data, Information, and Technical Resources**
3) **Budget**
4) **Existing Public Engagement and Collaborative Activities**
5) **Facilitation**

6. Develop Collaboration & Communication Plan

Based on the analysis of stakeholder interests and Forest capacity, the purpose of the Collaboration & Communication Plan is to develop a forest plan that is responsive to the interests of the forest, agencies, and the public and to inform and solicit input from the public and agencies on forest planning. The Collaboration and Communication Plan will identify the major steps in the revision process where the Forest will seek greater or lesser engagement; clarify the schedule for meetings, outreach, and other communication; affirm purpose and principles, roles and responsibilities, and decision-making; and identify key audiences/constituencies, potential partners, tools and materials, media outlets, outreach venues, and key messages for the Forest's revision process.

A. Key Considerations

a. Can difficult issues be addressed during the revision process? Or will certain ones take longer to resolve, or require a separate process, such as travel management?
b. What are the key interests that need to be involved in the revision process – who are the deal-makers and deal-breakers? Who can legitimately speak for each interest, and who will participate in good faith? (i.e., who will work to find areas of agreement, rather than holding onto inflexible positions)
c. Who will represent national organizations that have local branches/chapters? How will coordination and consistency between national and local interests be facilitated?
d. In addition to formal consultation, how will the Forest collaboratively engage local Native American Tribes?
e. What opportunities exist for working together with Tribal and local governments?
f. How will existing public engagement and collaborative efforts be used to advance specific steps in the revision process?
g. What role will science and scientists play? How can joint fact finding contribute to the plan revision in a timely manner?
h. How will disagreements among stakeholders be managed and addressed in the planning process?

B. Decision Making and Roles

1) Decision Maker

The Forest Supervisor is the final decision-maker on the Forest Plan. The supervisor is the responsible official for development and approval of plan revision for lands under the supervisor's responsibility (Proposed Planning Rule 36 CFR § 219.2 (3)).

2) **Roles & Responsibilities**

- Forest Service – National Forest

  The Forest will provide leadership and strategic guidance on resource issues and decisions represented in the forest plan and support the public engagement and Tribal consultation process. The Forest will identify and allocate staff, equipment, and financial resources to develop the information, complete the planning tasks, and integrate public input in the draft and final revised plan.

- Forest Service – Regional Office

  Region 5 will provide an overarching framework for the revision process to ensure consistency and comparability across Forest plans. Region 5 will support planning efforts that require integration of information across multiple Forests. The Regional Office will provide review and guidance and perform the bioregional assessment. This includes a common structure and approach for assessing resources, in accord with the bioregional assessment and science synthesis, for public communication and engagement, and Tribal consultation. The intent is to make the revision process clear, consistent, and efficient for the Forests, Tribal and local governments, and stakeholders, many of whom may participate in multiple forests' plan revisions.

- Tribal Governments

  Tribal Governments are sovereign nations with whom individual Forests consult on a government-to-government basis. Many Tribes have existing relationships and protocols for working with the Forests that encompass their historical or contemporary lands. National Forests will offer Tribes the opportunity to participate in and provide input to the plan revision process in accord with existing agreements.

- Cooperating Agencies

  The Forest Supervisor will encourage, where appropriate, States, counties, and other local governments to seek cooperating agency status in the National Environmental Policy Act process (Proposed Planning Rule 36 CFR § 219.4 (1) (iv)).

- State Agencies

  State agencies include State fish and wildlife agencies, State foresters, and other relevant State agencies. States can contribute and participate in the planning process, coordinating land management planning. In discussion with the Forest Supervisor, State agencies may seek cooperating agency status. The Forest Supervisor may participate in State Planning efforts and coordinate on land management planning.

- County Governments

  County governments in California have authority for land use planning and constitute the local government counterpart to the Forests. Most California Boards of Supervisors seek to enhance communication between Forest Supervisors, forests generally, and County Supervisors.

During plan revision, County governments will be requested to participate in and provide input to the plan revision process. The Counties and Forests may choose to provide staff for joint technical teams. County governments, in concert with the Forest Supervisor, can also become a cooperating agency under the National Environmental Policy Act process for plan revision. The Forest Supervisor is required to coordinate land management planning. The Forest Supervisor must consider the objectives of the State and local governments and Indian Tribes as expressed in their plans and policies, assess the interrelated impacts of these plans and policies and determine how the forest plan should deal with the impacts identified.

Some Counties may chose to sign on to the Memorandum of Agreement being developed among the US Department of Interior Bureau of Land Management, the Forest Service Region 5 and the California State Association of Counties and Regional Council of Rural Counties representing California county governing bodies. This Memorandum would provide single points of contacts and communication guidelines for signees.

- Interested Individuals and Entities

  Interested individuals and entities may participate in the plan revision process early and often depending on interest. Some individuals and entities may be very active participating in all outreach and collaborative activities while others may chose to receive updates and notices. All individuals and entities are vital to developing the assessment, developing the proposed plan, including the monitoring program, commenting on the proposal, participating in the National Environmental Policy Act review process, and reviewing the results of monitoring information.

- Scientists

  The Proposed Planning Rule commits to using the best available science to inform the planning process. Scientists serve as resource experts and advisors to the planning process.

C. Communication Strategies and Tools

The following strategies are relevant throughout the revision process. The Collaboration and Communication Plan will provide a detailed description of how the forest will use these tools.

1) Use the Collaboration & Communication Plan to clarify decision-making, roles and responsibilities, schedule, etc.
2) Use the Forest Service **wiki website as a clearinghouse** for all the information and materials associated with the Forest's plan revision process.
3) Develop and maintain an interested parties' **email distribution list.**
4) Proactively develop and regularly utilize **relationships** with existing organizations, the press, media outlets, and select bloggers to share news and information.
5) **Develop general informational materials** describing the Forest's revision process and highlighting opportunities for public engagement, including a general brochure, milestone fact sheets, newsletter articles (for placement in others' newsletters), and briefing packets.
6) **Conduct elected official briefings** for the local county boards of supervisors, local representatives for the state legislature, and local representatives for Congress at the start of the revision process and subsequent milestones (e.g., end of Year 1).
7) **Conduct outreach briefings at local organizations and collaborative groups**—go where people are already meeting. Forest Service staff can request time on the agenda of existing organizations to conduct briefings on the planning process and provide information and solicit feedback at key milestones.
8) **Hold periodic collaborative planning workshops** and public meetings to inform the public about the planning process and solicit input on the forest assessment and forest plan revision. Consider the use of **technology** in these forums, such as video teleconferencing and online meeting tools to facilitate participation for non-local stakeholders and others with an interest in contributing from a remote location.
9) **Develop a media kit and strategy** to maximize a broader communication strategy and proactively communicate status updates and progress.

7. Recommended Collaboration & Public Engagement

This section defines collaboration and provides recommended engagement for plan revision.

A. Defining Collaboration

Collaboration is a problem-solving process in which a diverse group of interested parties work together to develop widely supported solutions to questions of concern. It is **meaningful, two-way dialogue.** It is **not one-way** communication, like public comment or public education initiatives. It is not scoping.

The Proposed Planning Rule provides opportunity for participation in the assessment, plan revision, and monitoring. (36 CFR § 219.4 (a))

Link to International Association of Public Participation Spectrum of Public Participation

1) **Collaboration and Decision Making**
   - Collaborative processes are more akin to problem solving than decision making.
   - Effective collaboration incorporates the following key ingredients:
     - **Deliberations are thoughtful and frank and take local and non-local interests into account and include a diversity of perspectives and interests**
     - Meetings are civil and open to diverse groups
     - Opportunities for participation for all interested parties.
     - Participants are involved in determining key components of the process
     - Incorporate high quality information as determined at least in part by the participants
   - Collaboration does not take away the authority of an agency to make decisions. While individuals can challenge the decision of agencies, individuals cannot challenge authority of the agencies to make those decisions.
2) **Benefits**
   - **Improved Outcomes:** Collaboration frequently results in innovative projects and policies that extend across traditional jurisdictions, are responsive to different interests, and manage complexity.
   - **New Perspectives:** Conventional decision-making can bring about change through new rules and policies, but only collaboration can truly shift people's underlying attitudes.
   - **Mutual Learning:** Collaboration allows participants to learn from one another and work toward a deeper understanding of important issues and constraints.
   - **New Networks:** Collaboration builds "social capital" by increasing trust, often leading to the creation of new partnerships for sharing information and undertaking collective projects.
   - **A Sense of Shared Ownership:** Problem-solving power is shared in a collaborative process, and this often translates into a sense of shared responsibility for the outcomes.

- **Reduced Conflict:** Shared understanding and an increase in trust among participants can result in less conflict and fewer problems in the future.

B. Timeline: Year One Recommended Engagement

Goal: Complete bioregional and forest assessment; initiate public participation process; analyze stakeholder interests and forest capacity for collaboration; conduct briefings; develop Collaboration & Communication Plan.

1) Bioregional & Forest Assessments

a. Develop a timeline that identifies when draft assessment information will be available, when input and feedback will be obtained, and when information revisions will be complete.
b. Identify which assessment topics involve primarily technical and/or visual materials for public review and comment (e.g., maps), and which topics are primarily conceptual or strategic and will require discussion with the public, stakeholders, and Tribes.
c. Conduct round of briefings with local electeds and any key organizations that serve as an outreach vehicle.
d. Hold public workshop(s) to solicit comments on different bundles of assessment topics, with corresponding participation strategies.
    i. For example, a series of "stations" (i.e., tables or booths with materials displayed on easels/the wall, and an appropriate staff person) would allow people to easily look at, ask questions about, and comment on a range of visual materials.
    ii. For example, a series of facilitated discussion sessions would allow people to talk in a semi-structured way about conceptual/strategic topics.
e. Identify which topics overlap clearly with the work of existing collaborative groups, and work with the collaborative's leadership to identify the best way to solicit feedback from members.
f. Consider utilizing the wiki site to solicit comments on specific technical/visual materials, and soliciting open-ended comments on discussion topics.
g. Initiate Tribal consultation as needed.
h. Use the overarching communication strategies and tools as laid out in the Communication Plan. (See section on Collaboration & Communication Plan Elements.)

C. Timeline: Year Two Recommended Engagement

Goal: Engage the public in collaborative planning workshops, briefings, and scoping meeting; continue tribal consultation; provide regular communication and updates on planning process.

Collaborative Planning Workshops: Each forest will develop its workshop schedule and determine the number of workshops based on forest resources, existing collaborative efforts, and stakeholder input. The exact sequencing and schedule will follow each forest's Collaboration & Communication Plan and work in concert with the NEPA process.

Time	YEAR 2	
	NEPA Process	**Collaborative Opportunities through Workshops and Briefings**
	Notice of Intent Initiate Plan Revision with a *Proposed Plan (Need for Change)*	Provide planning process overview Review stakeholder analysis Discuss *proposed plan (need for change)* and management emphasis on ecological restoration and sustainable resource uses Develop Forest vision and the role of the Forest in communities
	Desired Conditions	What are the **desired conditions** (ecological, social, and economic) needed for the plan? What strategies will cause changes on the ground (i.e., manipulate vegetation)?
	Alternative Development	Develop traditional alternatives or examine strategic scenarios within the framework of a proposed plan Develop plan components: Management Areas, Standards & Guidelines, Objectives, Special Areas and Suitability Key Questions ▪ What are special area designations? ▪ What management areas/zones/geographic areas are needed? ▪ What objectives are needed to achieve desired conditions? ▪ What uses are suitable within various zones? ▪ What standards and guidelines are needed?
	Environmental Analysis	How does the Forest model information and display it? What analytical processes does the Forest use to get at specific concerns within the scope of the analysis? With limited time and money, how can the Forest be most effective? What monitoring questions are needed?
	Draft Environmental Impact Statement With formal 90-day review and comment period This required NEPA step will provide the basis for additional collaboration in year 3.	

D. Timeline: Year Three Engagement

time	YEAR 3	
	NEPA Process	**Collaborative Opportunities through Workshops and Briefings**
	Develop Final EIS	Based on formal comments, how does the Forest adjust the document to reflect suggested changes? Has additional science become available? Have new issues emerged? Have different strategies come to light? How do plan components need to be refined?
	Analysis	Re-analyze based on changes made. Do we need to adjust the models? Are the metrics and strategies still appropriate? What adjustments to the monitoring plan are needed?
	Draft Decision	
	Objection Process	Stakeholders discuss plan content—what's in the plan and why
	Final Decision	
	Carry Out the Strategies & Objectives in the Plan, with Adjustments based on Monitoring Collaboration Continues as Projects Move Forward	

8. Best Practices in Public Engagement and Collaboration

1. Accurately document and make publicly available meeting discussions and input.
2. Respond in timely way to information queries and questions.
3. Maintain transparency in information gathering, analysis, and decision-making.
4. Initiate a communication process early on, and maintain communication even during low activity periods.
5. Demonstrate clear executive commitment, guidance, and accountability.
6. Establish an inclusive revision process, including credible stakeholder representatives and multiple options for engagement.
7. Establish a process that provides regional consistency as well as the ability to tailor steps to local capacity and networks.
8. Develop a data management system with the end uses and end users in mind.
9. Establish clear processes for need and action prioritization before beginning these steps.

9. Forest Service Wiki as Information Clearinghouse

A. Our Forest Place: http://ourforestplace.ning.com/

Assessment Toolkit: The Living Assessment is a wiki-based Assessment that allows individuals to help write content for the California forest assessment. Individuals can also upload sources for a particular topic, and share in discussion about content or sources. The Value Mapping page outlines some new tools in development that help capture public values across the landscape.

Discussions: Individuals can view, contribute, and start discussions on the discussion page.

Blogs: Blogs are another opportunity to contribute ideas and content, and learn about what others think. Blogger must follow the Code of Conduct. Before blogging, visit OurForestPlace's How to Blog page for tips and guidelines.

Groups: Groups provide an online meeting room to focus on a specific topic, collaborate on a document, share discussions, or work as a team. It's easy to browse existing groups and to join a group. Groups can be public -- open to anyone to join -- or private, where membership is "by invitation only

My Page: After exploring, individuals can introduce his or herself on an individual "My Page," where the person can provide information, post photos, and communicate with others.

Help: If you have any questions about OurForestPlace check out our FAQs, post your question on the Helpdesk, or email an Administrator.

Attachment 4

General Plan Goals, Policies & Implementation Measures Relating to the

Inyo National Forest Resource Management Plan Update/Revision

Government Element: The following Government Element citations are relevant. Additionally, the appendices list relevant coordination requirements and highly mineralized areas.

3.2.3 PUBLIC LANDS

Federal, state and city managed lands make up more than 98 percent of the land mass identified in the General Plan. The County's economy is largely dependent on business and other activities taking place on such land. These activities are inseparably tied to the remaining portion of private land identified in the General Plan in that appropriate uses of private land in the County are affected by plans governing the use of such public lands. The County cannot effectively plan for the appropriate use of private lands in isolation from plans applicable to federal and other public lands in the County; the two are interrelated. It is, therefore, fundamental to the County's responsibility to its citizens to establish principles for the use of public lands within its jurisdiction. Recognizing the effect that the availability and allowed uses of public land has on the economic and social welfare of the population of the County dictates that the County General Plan identify principles for the use of federal lands that support the economic and social welfare of the County's citizens.

Further, the Board does not meet its responsibilities by merely adjusting its County land use plans to accommodate federal land use decisions. As representatives of County residents and for their welfare, there is an affirmative duty of the Board to advocate for allowed uses on federal land that benefit those most affected by federal land use decisions, its citizens. This duty, and the standing to pursue it, is specifically acknowledged in federal laws that require federal land management agencies to coordinate their planning activities with local government. Accordingly, it is a purpose of this chapter to identify uses of federal land and other public land that will best protect and ensure the economic and social welfare of the residents of the County. The Board finds that managing lands to ensure a vital and healthy local community is completely consistent with federal and state law and beneficial to all users of the public lands.

3.2.4 GOVERNING PRINCIPLES

The Board believes it is a fundamental principle of the United States' democratic and constitutional government that members of American communities be provided the means to maintain and enhance the environment and quality of life in their communities. It is fundamental to the concept of self-government that each local community protect the aspects of the local environment and community life that are unique to that community. Accordingly, it has always been the province of local government to regulate land use planning within its jurisdiction to implement the community's desires regarding its environment, including economic and cultural values. This fundamental ability of a community to organize itself to the

benefit of its members is as important to a rural community as it is to a city neighborhood, and the consequences of ignoring it is equally dire to all communities. Where any community is disenfranchised to the extent that decisions that affect its quality of life are made by persons not living in the community, it loses its fundamental rights under our democracy. Decisions regarding the nature of a community should not be made by persons who do not live in the community, do not understand the nature of the community, and who do not suffer the consequences of those decisions. A system that engenders this result risks losing its legitimacy, and cannot but suffer from the disaffection of those who are disenfranchised.

Where a community such as Inyo County, consists to the largest possible degree of public lands, which in many ways are jurisdictionally beyond the control of the local peoples who dwell therein, such a result is an ever present danger. Land use decisions for federal lands are often made by individuals and organizations that are not familiar with the local community and who may reside at distant locations. Local government and residents are better suited and able to assess potential impacts of land use actions than federal agencies Federal management should never be conducted in such a way that the local community and culture is ignored, or worse, impoverished or extinguished, by decisions made regarding the lands that surround that community and culture. It can never be to the benefit of the nation as a whole to destroy the fabric of any of its individual communities.

The Congress of the United States has recognized these principles entirely. In every statute by which it has authorized the federal executive departments to manage public lands, it has protected existing private rights in the lands and has required executive agencies to coordinate their management with the local community. The Board believes it is inherent in the Constitution of the United States and in all federal land use statutes, that considerations of local populations be incorporated in public land use decisions. There is contained in these statutes the clear direction of Congress that local communities be coordinated with in the management of federal lands so that local land use planning is acknowledged, understood and accommodated. And where federal land use plans are not consistent with local land use plans, such discrepancies must be understood and explained.

3.2.5 EXISTING SETTING

Inyo County consists almost entirely of federal, state and city lands. Sixty percent of the land in the County is wilderness, much located in Death Valley National Park, which means that such lands are not open to exploration or development of resources. Neither may such lands be explored or enjoyed by motor vehicle except on designated roads. Three percent of the land in the County is owned by the Los Angeles Department of Water and Power (LADWP), which manages those lands to the benefit of its citizens and for water supply. Such land is generally not available for development or consumptive use. Approximately 12 percent of the land in the County is National Forest and its use is limited. The remainder of the federal land in the County is managed by the Bureau of Land Management for multiple uses. Taken together, these public lands are such a major portion of the total lands that the planning for these lands have an overriding effect on the planning for the remaining 2 percent of land in the County that is under private ownership.

3.2.6 CUSTOM, CULTURE AND THE ECONOMIC BASE OF THE COUNTY

The history of the County may be summarized by its accomplishments in mineral extraction, livestock, farming, timber, wildlife and the transportation and recreation industries, led by individuals willing to work and develop the resources of the land as it exists today. The settlement of the County was based on the beneficial use of land at a time in history which precedes federal and state regulatory efforts that today could threaten that same custom and culture.

Residents of the planning area have historically and traditionally earned their livelihood from activities reliant upon the development of natural resources and recreation. The economy of the County has always been, and is today, dependent in a large part upon the availability and utilization of natural resources and reasonably accessible water supplies. Either directly or indirectly, the majority of persons employed in the planning area are dependent upon the availability of the County's natural resources and upon access to federal land.

Much of the land that produces the natural resources critical to the economy in the planning area is managed by federal and state agencies or is affected by these agencies. The economy of the County is largely dependent upon commercial and business activities, which include the economic recovery of minerals, the production of energy, agriculture, and recreation. These activities form the base for the economic stability of the County and are inseparably and vitally tied to the viable and effective use of private and public lands.

The Board has initiated the process by creating a Land Use Committee. This Advisory Committee is charged with the task of overseeing the County's relationship with public land agencies so that the Board's purposes and goals are successfully pursued.

3.2.7 GOVERNMENT ISSUES

The following section lists (in no specific order) some of the critical governmental issues that must be addressed in implementing this Element of the General Plan.

- Coordination with federal land managers in the preparation of plans for lands they manage that may impact Inyo County.
- Improving overall communication and coordination between the County and federal, state, local agencies and Native American tribes.
- No further net loss of private land within the County.
- Maintaining the General Plan.

3.2.8 MULTIPLE USE AND COORDINATION WITH FEDERAL AND STATE AGENCIES

This Plan provides a positive guide for the County to coordinate its efforts with federal and state land management agencies in the development and implementation of land use plans and management actions which are compatible with the best interests of the County and its citizens. The Plan is designed to facilitate continued, revitalized and varied use of federal and state managed lands in the planning area.

The County recognizes that federal law mandates coordinated planning with local governments and positively supports varied uses of federal lands. Such varied uses necessarily include continued maintenance of the historic and traditional economic uses within the planning area. It is the policy of the Board to work consistently to ensure that federal and state agencies inform the County of all pending or

proposed actions affecting the planning area and coordinate with the County in the planning and implementation of those actions.

Numerous other provisions of California statutory and decisional law provide standing for the County to call upon state agencies to coordinate their planning efforts with the County. It could only be for such a purpose that the California Legislature established the duty of a county to conduct a comprehensive planning process designed to prepare, implement, review and update a comprehensive general plan to include all land within the boundaries of the County and land outside the County boundaries which bears relation to its planning efforts.

The County does, therefore, call upon federal and state management agencies to coordinate in advance with the County on any proposed action, which will impact those managed lands. Such management agencies are requested to so coordinate their actions by providing to the County in a timely manner, prior to taking official action, a report on the proposed action, the purposes, objectives and estimated impacts of such action, and its economic impact. The planning process is ongoing, and will require the County, through the Land Use Committee, to become involved with analysis and evaluation of all stages of the planning cycles followed by federal and state management agencies.

GOAL GOV-1: WORK WITH AGENCIES, DISTRICTS, UTILITIES, AND NATIVE AMERICAN TRIBES TO PROMOTE CONSISTENCY WITH THE COUNTY'S GENERAL PLAN

Policy Gov-1.1: Plans for Agencies, Districts, Utilities, and Native American Tribes.

The County shall work with federal and state agencies, local districts, utilities (e.g., LADWP), and Native American tribes to ensure that they are aware of the contents of the County's General Plan and work with them to ensure that their plans are consistent with the County's General Plan to the greatest extent possible.

GOAL GOV-2: TO ENSURE PLANNING DECISIONS ARE DONE IN A COLLABORATIVE ENVIRONMENT AND TO PROVIDE OPPORTUNITIES OF EARLY AND CONSISTENT INPUT BY THE COUNTY AND ITS CITIZENS INTO THE PLANNING PROCESS OF OTHER AGENCIES, DISTRICTS AND UTILITIES

Policy Gov-2.1: Continue Participation on Collaborative Planning Effort

The County shall continue its participation in collaborative planning efforts and work to expand participation to all affected government agencies.

Policy Gov-2.2: Public Participation

The County shall work with federal and state agencies, local districts, utilities (e.g., LADWP), and Native American tribes to ensure that the County and the public are involved early in any planning process and that routine feedback and public input is requested.

GOAL GOV-3: TO PROVIDE OPPORTUNITIES FOR THE PRIVATE OWNERSHIP OF LAND BY MAINTAINING AND EXPANDING, WHEN POSSIBLE, THE AMOUNT OF PRIVATELY OWNED LAND AVAILABLE IN THE COUNTY

Policy Gov-3.1: No Net Loss

The County shall work with federal and state agencies, local districts, utilities (e.g., LADWP), and Native American tribes to encourage that land exchanges have a net positive impact on the County. In its evaluation, the County may consider factors such as impacts on the County's tax base and revenues, orderly community growth, future development, future revenues and/or other gains, and impacts on the environment, both natural and created.

Policy Gov-3.2: Private Land Increase

The County shall work with federal and state agencies, local districts, and utilities to find opportunities to expand private land ownership in the County through land transfers and other mechanisms.

Policy Gov-3.3: Land Release Locations

The County shall work with federal and state agencies, local districts, and utilities to target desired locations for land releases to private ownership.

GOAL GOV-4: LAND DISPOSITION, ACQUISITION AND USE POLICIES.

Policy Gov-4.1: Federal Land Dispositions and Acquisitions

It is the policy of the Board that the design and development of all federal and state land dispositions and acquisitions, including land adjustments and exchanges, be carried out to the benefit of the citizens of the planning area to ensure the following.

a. That the County property tax base shall be maintained unless the Board determines there is an overriding benefit to the County.

b. That the private property interests including, but not limited to, land patents, drilling rights, mining claims, easements, rights-of-way and forage rights are protected and enhanced.

c. That residents within the planning area shall suffer no adverse aggregate economic impacts.

d. That incentives be developed to provide an increase in local economic development by increasing, where possible, the amount of private and non-federal and non-state land within the planning area.

e. That private use of federal and/or state controlled land within the planning area be increased in order to enhance opportunities for local economic development.

f. That federal and/or state land agencies are discouraged from acquiring any private lands or rights in private lands within the planning area without first coordinating with the County.

g. That federally and/or state managed lands that are difficult to manage or which lie in isolated tracts, or that could contribute to orderly expansion of existing communities should be considered for exchange or sale to private ownership.

h. That the County be notified of, consulted about, and otherwise involved in all federal and state land adjustments in the planning area. The Board may review all proposed changes to determine if the proposals are in the best interest of the County.

i. The Board may review and make recommendations on proposed public land withdrawals for hazardous and non-hazardous waste storage as well as the types of such waste.

j. That before federal and state agencies change land uses, impact studies on land uses are conducted at the expense of the agency proposing the change and necessary mitigation measures adopted in coordination with the County. Impact studies should address community stability, local custom and culture, flood prone areas, access, or any other issue identified as a concern to the County.

k. Due to the extensive state and federal ownership in the County, it is noted that the management of these areas should include: provision for continued and improved access through and within the County; continued provision of public recreational facilities and access; multi-use management where applicable; and interconnection or coordination of state, federal, and local facilities and programs when possible.

Policy Gov-4.2: Economic Development.

With more than 98 percent of the land area of Inyo County owned by the federal, state and city governments, it is clear that the economic viability of the County is inextricably tied to operational decisions made on public lands. Among other policies contained in the Economic Development Element are:

a. The County shall encourage public agencies to develop new tourist serving facilities or otherwise enhance their capacity to serve visitors on the public lands they manage.

b. Encourage public land management and service agencies, including BLM, USFS, National Park Service (NPS), Caltrans, and LADWP to increase their capacity to serve visitors on properties they manage.

Policy Gov-6.1: Agricultural Policies

It is the policy of the County to protect agricultural land and promote the continuation of agricultural pursuits. The County seeks to ensure all of the following:

a. Those opportunities for agriculture on federal and state land shall be continued, or expanded at levels consistent with historical custom and culture and the protection of equitable property rights, and sound management practices.

b. That federal and state governments shall not unreasonably obstruct agricultural opportunities on lands managed by them.

c. That federal and state land managing agencies coordinate with the County on all matters affecting agriculture on all federal and state managed lands.

d. That land leased from Los Angeles for agriculture be expanded.

GOAL GOV-7: PROVIDE FOR RECREATIONAL OPPORTUNITIES

Policy Gov-7.1: Recreation Policies

The County supports and encourages varied use of public and private recreational opportunities:

a. The County requests coordination of federal, state, wildlife and fishery management and enforcement agencies with the County.

b. The County will work closely with any agency with which it shares jurisdiction.

c. Off road vehicle use is a significant recreational activity in the County. Existing off-road vehicles use areas should be continued and additional off-road vehicle areas should be developed.

d. The County approves any retention of revenues proposed under the authority of the Federal Lands Recreation Enhancement Act or similar law.

e. The County strongly supports and requests continuing maintenance of roads and expansion of motorized access to public lands.

f. The existing network of off-road vehicle routes on public lands in the County is of paramount importance to the recreational and resource goals of the County. All existing four-wheel and off-highway-vehicle drive routes should be maintained and the resource should be expanded where possible, subject to the avoidance of environmental or cultural harm. The four-wheel and off-highway-vehicle drive network, as shown on USGS maps and maps referenced in Appendix B, should be preserved.

g. The existing network of hiking, backpacking and stock trails in the Sierra Nevada must be enhanced and protected. Sierra Nevada tourism involving access to the backcountry is a fundamental ingredient to the economic and social health of the County. No existing trail should be closed. Where trails and natural habitat coincide, human use of the trails should be preserved.

GOAL GOV-8: WILDLIFE AND FISHERIES

Policy Gov-8.1: Management of Wildlife and Fisheries

Management of wildlife, including fish, game animals, non-game animals, predatory animals and Threatened, Endangered, Sensitive, Candidate or Management Indicator Species, under all jurisdictions, must be grounded in peer-reviewed science and local input. Wildlife management plans should identify and plan for mitigation of negative impacts to the project area's economy and environment and to private property interests and customary usage rights of its citizens. Therefore, the following are the policies of the County.

a. The County should cooperate with federal and state agencies who oversee the protection and recovery of federal and state listed threatened, endangered, sensitive or candidate species and their habitat.

b. The County may adopt local recovery plans as allowed under the Endangered Species Act.

c. Federal and state agencies shall prepare a plan in coordination with the County before the introduction or re-introduction of any species onto public or private land that is likely to impact the planning area.

d. The County supports wildlife management that:

1. Enhances populations of game and non-game species native to the project area.

2. Recognizes that enhancing non-native game and non-game species may negatively impact native species and rangeland ecosystems.

3. Increase wildlife numbers where practicable that is not in conflict with existing economic uses or ecosystem health.

4. Recognizes that large game animals compete for forage and water with other economic uses.

5. Supports the need for a private property compensation program for certain wildlife damages.

GOAL GOV-9: MINERAL RESOURCES

Policy Gov-9.1: Mineral Resources Policies

The County recognizes that the full development of its abundant mineral resources is desirable and an important component to the economic well being of the County, state and the nation. To encourage the exploration, development and reclamation of these resources, the County encourages the following:

a. That all mining activities use the best available science and technology to ensure adequate protection of land, air and water resources.

b. That lands available for exploration for mineral development be expanded, and that access to public lands be maintained, expanded or altered to allow mineral exploration and prospecting activities.

c. Recognition that over 60% of the lands in the County are Wilderness and unavailable for mining or other consumptive uses. Inyo County cannot afford additions to the Wilderness lands in the County, and should work to remove wilderness study areas and identified roadless areas in the County in order to preserve economic opportunity of federal lands.

d. Maintenance of mining opportunities on state and federal lands requires the maintenance or expansion of access.

e. Discourage incompatible developments on lands identified as containing significant mineral resources. Support uses that will not preclude future mining activities.

f. Highly mineralized areas have been mapped by the State of California; a non-exhaustive listing on many of these maps is included in Appendix B. Mineral exploration, development and extraction are encouraged in these areas.

GOAL GOV-10: ENERGY RESOURCES

Policy Gov-10.1: Development

Development of energy resources on both public and private lands be encouraged with the policies of the County to develop these energy resources within the bounds of economic reason and sound environmental health. Therefore, the Board supports the following policies.

a. The sound development of any and all energy resources, including, but not limited to geothermal, wind, biomass, and solar.

b. The use of peer-reviewed science in the assessment of impacts related to energy resource development.

c. The development of adequate utility corridors necessary for the transmission of newly generated energy.

d. Maintain energy opportunities on state and federal lands maintaining and expanding access

e. Treat renewable energy sources as natural resources, subject to County planning and environmental jurisdiction. Consider, account for, and mitigate ecological, cultural, economic, and social impacts, as well as benefits, from development of renewable energy resources. Consider developing environmental and zoning permitting processes to ensure efficient permitting of renewable energy projects while mitigating negative impacts to county services and citizens, with a goal to ensuring that citizens of the County benefit from renewable energy development in the County.

GOAL GOV-11: ACCESS AND TRANSPORTATION

Policy Gov-11.1: Balanced Transportation

It is the policy of the County to develop and maintain a transportation system that optimizes accessibility and that minimizes the cost of movement within the planning area and connecting corridors consistent with County, state and federal roadways and travel ways; therefore, it is the policy of the County that:

a. Any and all proposed route closures should be coordinated with the County and be highlighted in the appropriate environmental document.

b. Most railroad rights of way have been abandoned. Any remaining railroad right of way being considered for conversion to a different use should be reviewed by the County to determine that the use is temporary and not preclude future railroad use or that it is not viable for future railroad or other transportation use.

c. All routes causing no actual resource damage should remain open.

d. All off-road closure policies must contain adequate exemptions for administrative, management and public functions. These should include but not be limited to:

1. Agency administration.

2. Livestock management.

3. Scientific research.

e. Interagency Notification – The County, when affected by land use planning on public lands, shall be consulted and coordinated with in accordance with all applicable state and federal laws. Federal and state agencies shall coordinate with the County for the purpose of planning and managing lands within the geographic boundaries of the planning area or within the socio-economic sphere of the County.

Land Use Element: the Land Use Element provides for land use designations for all lands within the County. In addition to site-specific land use designations (most of which are State and Federal Lands within the Forest Plan boundary), the following references are relevant.

Policy LU-1.12 Other Public Agency Land Holdings: The County shall encourage public entities to inventory parcels and acreage suitable for commercial, industrial and residential purposes for future land sales to the general public, and encourage public entities to conduct land sales and/or exchanges to create new private holdings suitable for commercial, industrial and residential uses.

Implementation Measure 4.0: The County shall continue its on-going dialogue with the land holding public entities to coordinate the effort to plan community expansion in a logical and orderly manner in the Owens Valley.

Economic Development Element: The Element notes that local wealth is highly dependent on the tourism drawn to the open public lands within the County. Promoting multiple compatible economic uses of such lands whenever possible is identified as a critical economic development issue, as is expanding tourism and ensuring the proper long-term management of such lands.

- Goal ED-1: Promote increased capacity to serve tourists within the County's established urbanized areas, and in those areas with established tourist attractions.
- Policy ED-1.2/Visitor Capacity on Public Lands: The County shall encourage public agencies to develop new tourist serving facilities or otherwise enhance their capacity to serve visitors on the public lands they manage.
- Economic Development Implementation Measure 2.0: Encourage public land management and service agencies, including BLM, USFS, National Park Service (NPS), Caltrans, and LADWP to increase their capacity to serve visitors on properties they manage.

Housing Element: The Element notes that the small amount of private land within the County results in a need for housing, land for which may potentially come from land releases between agencies.

- Policy HE-3.1/Variety of Housing: In consultation with federal, state, and local agencies, the County shall continue to identify and evaluate the best approaches to providing a variety of residential development opportunities in the County, including single-family homes, mobile homes, second units, and apartments to fulfill regional housing needs.
- Housing Implementation Measure 3.1.1: The County shall continue to work with the City of Bishop, DWP, BLM, the Forest Service, the National Park Service, Caltrans and other federal, state, and local agencies to identify appropriate land for release and discourage public acquisition

of private lands, as appropriate, thus enabling the County to provide additional sites for housing development. Additionally, the County will continue to work with various Tribal Councils to pursue development of affordable housing units on reservations, including providing logistical support and technical expertise for housing projects, as available and appropriate

Circulation Element: Reiterating the importance of tourism to the County's well-being, the Element notes that transportation planning within the County is geared toward the high influx of pass-through traffic, a large portion of which is from tourism.

- Policy RH-1.9/Plan Comprehensive Transportation System: Continually plan, prioritize, design, and develop a comprehensive transportation system in cooperative partnership between the County, City of Bishop, state officials, the Local Transportation Commission (LTC), public and private groups, and other interested entities.

Conservation/Open Space Element: The Element notes that the natural environment is a large part of the County's economic base that brings visitors and tourism to the County.

- Goal BIO-2: Provide a balanced approach to resource protection and recreational use of the natural environment.
- Policy BIO-2.1/Coordination on Management of Adjacent Lands: Work with other government land management agencies to preserve and protect biological resources while maintaining the ability to utilize and enjoy the natural resources in the County.
- Policy BIO-2.2/Appropriate Access for Recreation: Encourage appropriate access to resource-managed lands.
- Implementation Measure 8.0: The County shall support the appropriate preservation, restoration, and enhancement of sensitive natural communities or special-status species habitats conducted by land management agencies in the County.
- Implementation Measure 13.0: The County will work with other government agencies to provide designated access points, trails, and roads into and through resource-managed lands. The County will assist in discouraging random access to and inside sensitive ecological areas.
- Implementation Measure 14.0: The County shall support the preservation or reestablishment of fisheries in the rivers and streams within the County, whenever possible.
- Implementation Measure 15.0: The County shall work to inform and educate the public about the natural resources in Inyo County and the steps that they can take to help protect, enhance, restore, and enjoy these resources.
- Implementation Measure 16.0: The County, in cooperation with other agencies, shall seek funding for the development of interpretive facilities that educate the public on the natural environmental resources.
- Goal REC-1: Develop a public parks, recreation, and open space system that provides adequate space and facilities to meet the varied needs of County residents and visitors.
- Policy REC-1.2/Recreational Opportunities on Federal, State, and LADWP Lands: Encourage the continued management of existing recreational areas and open space, and appropriate expansion of new recreational opportunities on federal, state, and LADWP lands.

- Implementation Measure 1.0: Work with federal and state agencies that manage land within Inyo County to ensure that appropriate access to open space and recreational areas is provided.

AGENDA REQUEST FORM

BOARD OF SUPERVISORS
COUNTY OF INYO

For Clerk's Use Only:
AGENDA NUMBER
19

☐ Consent ☒ Departmental ☐ Correspondence Action ☐ Public Hearing

☒ Scheduled Time for 11:30 ☐ Closed Session ☐ Informational

FROM: WATER DEPARTMENT

FOR THE BOARD MEETING OF: APRIL 17, 2012

SUBJECT: WORKSHOP AND POSSIBLE DIRECTION CONCERNING THE LORP RECREATIONAL USE PLAN

DEPARTMENTAL RECOMMENDATION: The County has just completed a draft Recreation Use Plan for the Lower Owens River (LORP RUP). The County Administrator and Water Department seek direction on how to proceed to a final LORP RUP.

SUMMARY DISCUSSION: A recreational use plan is described in the Lower Owens River Project, Post Implementation Agreement (PIA) Section II, C. (1&2):

> *Unless otherwise agreed by the Parties, the County will have the sole responsibility for planning, operating, constructing, and maintaining the following activities (should any such activities be planned, constructed and maintained) and for all costs arising from such activities.*
>
> 1. *The development of a recreational use plan for the portion of the Owens River within the project area. (Should any such plan be developed, the implementation of the plan or of any component of the plan will require approval by LADWP before it is implemented.)*
>
> 2. *The development of any campgrounds along the Owens River within the project area. (Should any such campground be proposed for development, the campground will require the approval of LADWP before it is implemented.)*

Developing a RUP will provide a mechanism to comprehensively identify resource-appropriate recreational opportunities and evaluate these in relation to: environmental and habitat objectives of the LORP; maintenance of warm water fishery, LADWP operations, cultural resources, cattle grazing and other agricultural activities. The LORP RUP will address community concerns that cultural resources and working landscapes be protected; and feasibility, cost of implementation and maintenance of new programs, facilities, and uses.

The LORP Monitoring and Adaptive Management Plan (Section 3.21) addresses both the opportunities and challenges of new recreational uses in the LORP area:

> *It is anticipated that the LORP area will be a high-use recreation area that will appeal to recreationists who enjoy bird watching, wildlife viewing, hunting and fishing or many other outdoor activities in a natural and unique ecosystem (LORP MAMRP, 3-75). Increases in visitor use are expected each year for the first 10-15 years of the project. It is expected that impacts from visitations will increase, as well. Impacts include road deterioration, waste and litter accumulation, facility and ecological vandalism, fire, unauthorized road use, artifact gathering, vegetation trampling and soil disturbance.*

The County's recreation plan consultant (MIG, Inc.) has just completed the draft LORP RUP.

The development of the LORP RUP was to occur in two phases, where the first concluded with the completion of a draft LORP RUP, and the second ending with the adoption of the final RUP by Inyo County and the LADWP. The project was phased to accommodate the Sierra Nevada Conservancy's (SNC) administrative request that funding span more than one grant cycle (the SNC provided $94,350, which funded the majority of Phase I work). By agreeing to this arrangement, the County was left with a reasonable expectation that successful completion of the first phase would provide a competitive position for a future round of SNC funding; however, although the County satisfied the obligations of the Phase I grant, the SNC modified their program focus for fiscal years 2011-2012 and 2012-2013 such that the second phase in the development of the LORP RUP is ineligible in this fiscal year and may be ineligible next year.

During Phase I public outreach activities, concerns were raised regarding lesee liability, protection of cultural resources, interference with LADWP operations, interference with lesee operations, disturbance to LORP habitat, and increased use of roads in LORP area potentially affecting air quality and road condition.

The SNC has recently released draft guidelines for a fiscal year 2012-13 grant program, which focuses on preservation of ranches and agricultural lands. One hundred percent of the LORP planning area is ranchland. Depending on the final version of the SNC's 2012-13 grant program, it is conceivable that the County can develop a competitive proposal to complete the LORP RUP.

In the short term, the SNC is investigating other sources of support for the LORP RUP. The Conservancy has provided a list of potential donors, sought the assistance of the UC Agricultural Extension, and offered the services of their staff to assist with meeting facilitation.

It is anticipated that Phase II, if developed as contemplated during the development of the scope of work for Phase I, would entail drafting of a preferred plan, presentation of a preferred plan to the community and decision makers, synthesis of feedback, and preparation of a final plan for presentation to your Board as well as the LADWP Board of Water and Power commissioners. As a point of information, MIG has estimated a budget of $48,000 to complete the development of the LORP RUP and present it to your Board and the LADWP Board of Water and Power Commissioners for approval.

ALTERNATIVES:

1. Continue of path contemplated in original scope. Seek funding to proceed with a consultant to develop, finalize and take to approval a final LORP RUP. Subject to Board approval of additional SNC or other funding, the development of the LORP RUP would proceed as described in the scope of the County's original proposal to the SNC.

2. Digest draft workplan by addressing key components. Address concerns raised by stakeholders through further development of specific components of the LORP RUP that might be eligible for Phase II funding. Phase I identified issues regarding specific components of the draft LORP RUP. The next step could be to resolve issues regarding specific components of the draft LORP RUP, and seek funding for implementation (rather than planning) of those components.

3. Complete original scope in house. Not proceed further with a consultant in the development of a final RUP. The draft LORP RUP developed by MIG Inc. provides implementation recommendations that would be further developed by County staff and proposed to Inyo County residents and the LADWP.

OTHER AGENCY INVOLVEMENT: Inyo County Planning Department, Sierra Nevada Conservancy, Los Angeles Department of Water and Power.

FINANCING: As described above, financing completion of the LORP RUP is uncertain.

APPROVALS	
COUNTY COUNSEL: N/A	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS *(Must be reviewed and approved by county counsel prior to submission to the board clerk.)* Approved: _____ Date_____
AUDITOR/CONTROLLER: N/A	ACCOUNTING/FINANCE AND RELATED ITEMS (*Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)* Approved:_____ Date_____
PERSONNEL DIRECTOR: N/A	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.) Approved:_____ Date_____

DEPARTMENT HEAD SIGNATURE: R. Hunsaker Date: 4/11/2012
(Not to be signed until all approvals are received)
(The Original plus 20 copies of this document are required)

AGENDA REQUEST FORM

BOARD OF SUPERVISORS
COUNTY OF INYO

For Clerk's Use Only:
AGENDA NUMBER
21-22-23
24-25-26
27-28-29
30

☐ Consent ☐ Departmental ☐ Correspondence Action ☐ Public Hearing

☐ Scheduled Time for X Closed Session ☐ Informational

FROM: COUNTY COUNSEL

FOR THE BOARD MEETING OF: April 17, 2012

SUBJECT: ISSUES TO BE DISCUSSED IN CLOSED SESSION

DEPARTMENTAL RECOMMENDATION:

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION [Pursuant to Government Code § 54956.9(c)]. Decision Whether to Initiate Litigation (one case)

PERSONNEL [PURSUANT TO GOVERNMENT CODE § 54957] - Public Employee Performance Evaluation Title: Director Agriculture/Weights and Measures

PERSONNEL [PURSUANT TO GOVERNMENT CODE § 54957] - Public Employee Performance Evaluation Title: Director Child Support Services

CONFERENCE WITH LABOR NEGOTIATOR [Pursuant to Government Code § 54957.6]. - Instructions to Negotiators re: wages, salaries and benefits - Employee Organization: Deputy Sheriff's Association (DSA) - Negotiators: Labor Relations Administrator, Sue Dishion, Information Services Director, Brandon Shults, and Planning Director Josh Hart.

CONFERENCE WITH LABOR NEGOTIATOR [Pursuant to Government Code § 54957.6]. Instructions to Negotiators re: wages, salaries and benefits - Employee Organization: Elected Officials Assistant Association (EOAA) - Negotiators: Chief Probation Officer Jeff Thomson and Labor Relations Administrator Sue Dishion

CONFERENCE WITH LABOR NEGOTIATOR [Pursuant to Government Code § 54957.6]. - Instructions to Negotiators re: wages, salaries and benefits - Employee Organization: Inyo County Correctional Officers Association (ICCOA) - Negotiators:Labor Relations Administrator Sue Dishion.

CONFERENCE WITH LABOR NEGOTIATOR [Pursuant to Government Code §54957.6]. - Instructions to Negotiators re: wages, salaries and benefits - Employee Organization: ICEA - Negotiators: Labor Relations Administrator Sue Dishion, Director Child Support Services Susanne Rizo, and Chief Probation Officer Jeff Thomson.

CONFERENCE WITH LABOR NEGOTIATOR [Pursuant to Government Code § 54957.6]. - Instructions to Negotiators re: wages, salaries and benefits - Employee Organization: Inyo County Probation Peace Officers Association (ICPPOA) - Negotiators:CAO Kevin Carunchio and Labor Relations Administrator Sue Dishion.

CONFERENCE WITH LABOR NEGOTIATOR [Pursuant to Government Code § 54957.6]. - Instructions to Negotiators re: wages, salaries and benefits Title: IHSS - Negotiators: Health and Human Services Director Jean Turner, Labor Relations Administrator Sue Dishion, Employer of Record Anne Parkinson Noda and Bill May

CONFERENCE WITH LABOR NEGOTIATOR [Pursuant to Government Code § 54957.6]. - Instructions to Negotiators re: wages, salaries and benefits - Employee Organization: Law Enforcement Administrators' Association (LEAA) - Negotiators: CAO Kevin Carunchio and Labor Relations Administrator Sue Dishion.

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION [Pursuant to Government Code § 54956.9(b)]. – *Significant Exposure to Litigation (one case).*

APPROVALS

COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS *(Must be reviewed and approved by county counsel prior to submission to the board clerk.)* R Keller Approved: — Date 4-11-12

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received) R Keller Date: 4-11-12
(The Original plus 20 copies of this document are required)

AGENDA REQUEST FORM

BOARD OF SUPERVISORS
COUNTY OF INYO

For Clerk's Use Only:
AGENDA NUMBER
32

☐ Consent ☐ Departmental ☐ Correspondence ☐ Public Hearing

☐ Scheduled Time for ☐ Closed Session ☒ Informational

FROM: Alisha McMurtrie, Treasurer-Tax Collector

FOR THE BOARD MEETING OF: April 17, 2012

SUBJECT: Treasury Status Report for the Quarter Ending March 31, 2012

DEPARTMENTAL RECOMMENDATION: Review Report and direct questions to the County Treasurer.

CAO RECOMMENDATION:

SUMMARY DISCUSSION: The Report is provided pursuant to the provisions of Sections 16481.2 and 53646(b) of the Government Code. The primary purposes of the Report are to disclose the following: the investments and deposits of the treasury; the cost basis and market values of investments; compliance to the County Treasury Investment Policy; The weighted average maturity of the investments; and, the projected ability of the Treasury to meet the expected expenditure requirements of the Treasury's pooled participants for the next six months.

ALTERNATIVES: N/A

OTHER AGENCY INVOLVEMENT: Pursuant to Section 16481.2(a) of the Government Code, which is optional, copies of quarterly reports are sent to members of the County Treasury Oversight Committee. Pursuant to Section 53646(g) of the Government Code, which is also optional, copies of the reports as of December 31st and June 30th are forwarded to the California Debt and Investment Advisory Commission. Copies of all quarterly Treasury reports are available to Treasury participants.

FINANCING: N/A

APPROVALS	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS *(Must be reviewed and approved by county counsel prior to submission to the board clerk.)* N/A Approved: _____ Date_____
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS (M*ust be reviewed and approved by the auditor-controller prior to submission to the board clerk.)* N/A Approved: _____ Date_____
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.) N/A Approved:_____ Date_____

DEPARTMENT HEAD SIGNATURE: Alisha McMurtrie Date: 04/05/12
Alisha McMurtrie, Treasurer-Tax Collector

COUNTY OF INYO
TREASURER-TAX COLLECTOR
168 NORTH EDWARDS STREET
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INDEPENDENCE, CA 93526-0614
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ALISHA McMURTRIE
TREASURER-TAX COLLECTOR

TO: Honorable Members of the Inyo County Board of Supervisors
FROM: Alisha McMurtrie, Treasurer-Tax Collector
SUBJECT: Report of the Status of the Inyo County Treasury as of: March 31, 2012
DATE: April 5, 2012

The following status report of the County Treasury as of March 31, 2012 is provided pursuant to the provisions of Sections 16481.2 and 53646(b) of the Government Code.

The attached copy of the "Treasurer's Daily Reconciliation" provides a breakdown of the dollar amount of the Treasury assets by depository for monetary assets and by issuer for securities.

The attached copy of the custody statement from Union Bank of California reflects, among other things, the following information regarding each security held: issuer, maturity date; CUSIP number; face amount; cost basis; and market value (calculated by Merrill Lynch).

The weighted average maturity of the investments of the Treasury was 764 days.

It is anticipated that the County Treasury will be able to meet the liquidity requirements of its pooled participants for the next six months.

The investment portfolio is in compliance with the Inyo County Treasury Investment Policy.

NOTES: Regarding Inyo County's monetary assets held outside the County Treasury:

- Various Inyo County Departments and treasury pool participants maintain and administer bank checking accounts outside the County Treasury.
- Inyo County's OPEB investment with PARS balance as of 1/31/2012 was $3,786,332.55. (Principal: $3,500,000.00 + Interest: $295,027.88 – Fees: $8,695.33)

C: Ms. Leslie L. Chapman, Inyo County Auditor-Controller
Mr. Art Maillet, Inyo County District Attorney
Mr. Bill Lutz, Inyo County Sheriff
Members of the Inyo County Treasury Oversight Committee

TREASURER'S DAILY RECONCILIATION
DATE: 3-30-12

AUDITOR'S BALANCES

Balance Forward - Cash in Treasury		**$99,844,761.14**
Plus: Auditor Adjustments Payroll		
Deposit Authorizations		**$567,087.67**
Less: Co. Checks Pd	**03/29/12**	**(138,705.31)**
Auditor JE# to adjust		
Outgoing Electronic Wires		**(588.00)** NACHA
		(3,662.58) Yth Central state
		(7,107.78) Yth Charter State
		(56,576.30) Sch State
		(53,028.48) Yth Fed Tax
		(309,919.77) Sch Fed Tax
		(1,411,010.15) Sch Payroll
		(21,797.42) Vendo Payment
		(249,819.62) Pers
		(70,000.00) ESTA
Ending "Claim on Cash in Treasury"		**$98,089,633.40**

****

TREASURER'S BALANCE:

Cash on Hand:	Vault	**$4,273.00**
	Drawer	**$173.24**
Bank Deposits on Hand:		

BANK ACCOUNTS:

Union Bank - General Account.	**$1,677,598.58**
El Dorado - General Account	**$21,203.00**

INVESTMENTS;		**% Invested**	
		Agency	*Limit*
Local Agency Investment Fund	**$40,000,000.00**		
AIM Money Market	**$1,000,000.00**	*1.02%*	of 10.00%
UBS Money Market	**$1,800,000.00**	*1.84%*	of 10.00%
Federal Agencies	**$ 38,987,011.11**	*39.75%*	of 100.00%
Treasury Bill	**$0.00**	*0.00%*	of 100.00%
Commercial Paper	**$ 14,600,127.20**	*14.88%*	of 15.00%

TOTAL TREASURY BALANCE:	**$98,090,386.13**		
Difference: (Treasury SHORT or OVER)	$752.73		
Explanation of Difference:	El Dor Ck# 1605	$1,203.00	
	Error ck pd 3/29	($450.27)	
NOTES			
Investments Maturing Over 1 Year	**$ 32,999,000.00**	*33.64%*	of 35.00%

Prepared By: MP

Inyo County Treasurer's Report
Weighted Average Maturity

Maturity Date	# of Days to Maturity	$ Amount of Security
4/23/2012	2x23	$ 1,993,781.94
5/4/2012	3x34	$ 2,991,355.00
5/11/2012	2.6x41	$ 2,641,485.40
5/31/2012	61	$ 998,011.11
6/11/2012	5x72	$ 4,982,750.00
6/29/2012	5x90	$ 4,990,000.00
7/13/2012	104	$ 996,947.78
8/31/2012	153	$ 993,807.08
9/9/2013	5x496	$ 5,000,000.00
11/19/2013	5x598	$ 4,000,000.00
11/29/2013	2x608	$ 1,999,000.00
6/27/2014	5x818	$ 5,000,000.00
12/14/2015	4x1353	$ 4,000,000.00
10/19/2016	4x1663	$ 4,000,000.00
11/29/2016	4x1708	$ 4,000,000.00
3/28/2017	5x1824	$ 5,000,000.00
		$ 53,587,138.31

Total = 764 Days Weighted Average Maturity
As of: March 31, 2012

Please note that this does not include checking account at UBOC, El Dorado, LAIF or UBS acc

*Days are determined at a per million rate.

UnionBank

Holdings - Reporting as of Trade Date
Account: 6736305280 - COUNTY OF INYO

As of: 30-Mar-2012

Pending Transactions Included

Asset Type	Asset Name	Maturity Date	CUSIP	Shares / Units	Cost Basis	Market Value	S&P Rating	Moody's Rating	Net Unrealized Gain/Loss	Annual Yield	Estimated Annual Income
Cash & Cash Equivalents	UBS FINANCE DELWDC/P 4/23/12	23-Apr-2012	90262CDP9	2,000,000.0000	$1,993,781.94 USD	$1,999,680.00 USD			$5,898.06 USD		
Cash & Cash Equivalents	HSBC FIN DC/P 5/04/12	04-May-2012	4042F0E49	3,000,000.0000	$2,991,355.00 USD	$2,999,010.00 USD			$7,655.00 USD		
Cash & Cash Equivalents	UBS FINANCE DC/P 5/11/12	11-May-2012	90262CEB9	2,650,000.0000	$2,641,485.40 USD	$2,648,940.00 USD			$7,454.60 USD		
Government Obligations	FNMA DISC NTS 5/31/12	31-May-2012	313588XN0	1,000,000.0000	$998,011.11 USD	$999,950.00 USD	N/A	N/A	$1,938.89 USD		
Cash & Cash Equivalents	HSBC FIN CORP DC/P 6/11/12	11-Jun-2012	4042F0FB2	5,000,000.0000	$4,982,750.00 USD	$4,994,750.00 USD			$12,000.00 USD		
Government Obligations	FNMA DISC NTS 6/29/12	29-Jun-2012	313588YT6	5,000,000.0000	$4,990,000.00 USD	$4,999,400.00 USD	N/A	N/A	$9,400.00 USD		
Cash & Cash Equivalents	UBS FINANCE DELWDC/P 7/13/12	13-Jul-2012	90262CDD6	1,000,000.0000	$996,947.78 USD	$998,190.00 USD			$1,242.22 USD		
Cash & Cash Equivalents	UBS FINANCE DEL DC/P 8/31/12	31-Aug-2012	90262CHX8	1,000,000.0000	$993,807.08 USD	$996,560.00 USD			$2,752.92 USD		
Government Obligations	FNMA NTS 1.050% 9/09/13	09-Sep-2013	3136FPEL7	5,000,000.0000	$5,000,000.00 USD	$5,040,100.00 USD	AA+	AAA	$40,100.00 USD		
Government Obligations	FNMA NTS 0.800% 11/19/13	19-Nov-2013	31398A5Z1	4,000,000.0000	$4,000,000.00 USD	$4,020,600.00 USD	AA+	AAA	$20,600.00 USD		
Government Obligations	FHLMC MTN 0.500% 11/29/13	29-Nov-2013	3134G26U1	2,000,000.0000	$1,999,000.00 USD	$2,001,300.00 USD	AA+	AAA	$2,300.00 USD		
Government Obligations	FFCB BDS 1.050% 6/27/14	27-Jun-2014	31331KQL7	5,000,000.0000	$5,000,000.00 USD	$5,004,100.00 USD			$4,100.00 USD		
Government Obligations	FFCB BDS 1.170% 12/14/15	14-Dec-2015	31331K2S8	4,000,000.0000	$4,000,000.00 USD	$4,000,400.00 USD			$400.00 USD		
Government Obligations	FHLMC NTS S/U 0.500% 10/19/16	19-Oct-2016	3134G2S45	4,000,000.0000	$4,000,000.00 USD	$4,000,400.00 USD			$400.00 USD		
Government Obligations	FNMA NTS 1.625% 11/29/16	29-Nov-2016	3136FTNM7	4,000,000.0000	$4,000,000.00 USD	$4,004,640.00 USD	AA+	AAA	$4,640.00 USD		
Government Obligations	FHLMC MTN 1.210% 3/28/17	28-Mar-2017	3134G3SC5	5,000,000.0000	$5,000,000.00 USD	$5,025,050.00 USD	AA+	AAA	$25,050.00 USD		
Subtotals											
Cash & Cash Equivalents					$14,600,127.20 USD	$14,637,130.00 USD			$37,002.80 USD		
Government Obligations					$38,987,011.11 USD	$39,095,940.00 USD			$108,928.89 USD		
Totals					$53,587,138.31 USD	$53,733,070.00 USD			$145,931.69 USD		

PUBLIC AGENCY RETIREMENT SERVICES | PARS

COUNTY OF INYO
PARS GASB 45 Program

Monthly Account Report for the Period
1/1/2012 to 1/31/2012

Kevin Carunchio
County Administrative Officer
County of Inyo
P.O. Drawer N
Independence, CA 93526

Account Summary

Source	Beginning Balance as of 1/1/2012	Contributions	Earnings	Expenses	Distributions	Transfers	Ending Balance as of 1/31/2012
Employer Contribution	$3,160,874.48	$500,000.00	$126,137.80	$679.73	$0.00	$0.00	$3,786,332.55
Totals	**$3,160,874.48**	**$500,000.00**	**$126,137.80**	**$679.73**	**$0.00**	**$0.00**	**$3,786,332.55**

Investment Selection

HighMark PLUS Moderate

Investment Objective

The dual goals of the Moderate Strategy are growth of principal and income. It is expected that dividend and interest income will comprise a significant portion of total return, although growth through capital appreciation is equally important. The portfolio will be allocated between equity and fixed income investments.

Investment Return

			Annualized Return			
1-Month	3-Months	1-Year	3-Years	5-Years	10-Years	Inception Date
3.77%	3.28%	2.88%	N/A	N/A	N/A	6/16/2010

Information as provided by Union Bank, Trustee for PARS GASB 45 Program; Not FDIC Insured; No Bank Guarantee; May Lose Value

Past Performance does not guarantee future results. Performance returns may not reflect the deduction of applicable fees, which could reduce returns. Information is deemed reliable but may be subject to change.

Investment Return: Annualized rate of return is the return on an investment over a period other than one year multiplied or divided to give a comparable one-year return.

Inception Date: Plans inception date